



COUNTY OF BRANT COMMITTEE OF ADJUSTMENT REPORT

DATE: July 18, 2024

REPORT NO: RPT-0352-24

TO: To the Chair and Members of the Committee of Adjustment

FROM: Jessica Abraham – Junior Planner

APPLICATION TYPE: Minor Variance Application

APPLICATION NO: A8-24-JA

LOCATION: 14 Cornwell Road

OWNER: Miled Abi-Rached and Dounia Zahra

SUBJECT: Request for a decision on a Minor Variance Application seeking relief from Zoning By-law 61-16.

RECOMMENDATION

THAT Application for Minor Variance **A8-24-JA** from Miled Abi-Rached and Dounia Zahra, Owners of lands legally described as RANGE 1 NHR PT LOT 7 RP 2R6501 PART 1, municipally known as 14 Cornwell Road, Geographic Township of Brantford, County of Brant, seeking relief from Zoning By-law 61-16, Section 4, Subsection 4.5 b(x)(4) to permit a setback of 51.5 metres (169 feet) whereas, 40 metres (131.23 feet) is required from the primary dwelling unit to facilitate the construction of a proposed detached additional residential unit, **BE APPROVED.**

THAT the reason(s) for approval are as follows:

- The relief requested is considered minor in nature and is desirable for the appropriate development and use of the subject lands;
- The proposed variance is in keeping with the general intent of the Official Plan and Zoning By-Law 61-16;
- The proposed variance meets the four tests of the *Planning Act*.

EXECUTIVE SUMMARY

Minor Variance Application **A8-24-JA** is requesting relief from Zoning By-law 61-16, Section 4, Subsection 4.5 b(x)(4) to permit a setback of 51.5 metres (169 feet) whereas, 40 metres (131.23 feet) is required from the primary dwelling unit.

The application is required in order to facilitate the construction of a proposed Additional Residential Unit (ARU). The current requirement of 40 metres (131.23 feet) would place the proposed additional residential unit in a problematic location due to the location of the septic tank and leach field. The relief requested is to preserve the necessary space and field around the septic tank.

Review of this minor variance application has had regard for the four tests as set out in Section 45(1) of the *Planning Act*, public comments and internal comments received as part of the technical circulation.

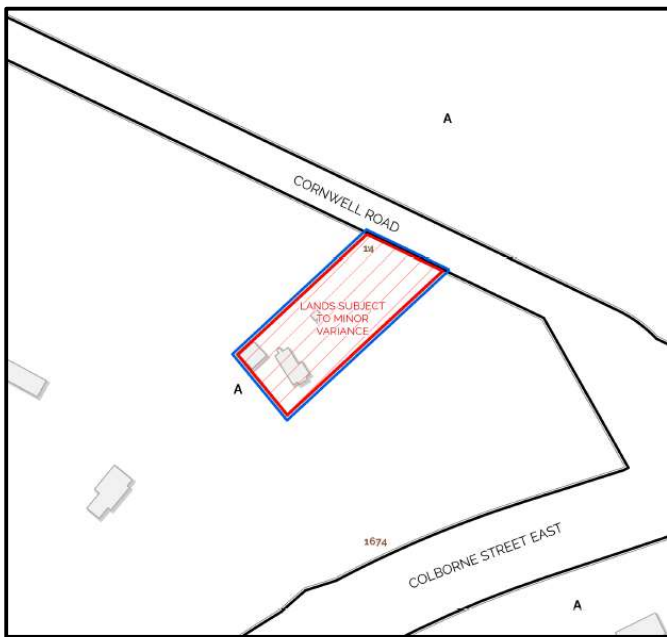
It is my professional opinion that the relief requested is considered minor in nature, is desirable for the appropriate development and use of the subject lands and the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-Law 61-16 and therefore recommend that the Minor Variance Application **A8-24-JA** be **Approved**.

LOCATION / EXISTING CONDITIONS

The subject lands are located south of Cornwell Road, and North of Colborne Street East.

LOCATION MAP
Application: A8-24-JA
14 Cornwell Road

AERIAL IMAGE
Application: A8-24-JA
14 Cornwell Road



The subject lands have frontage of approximately 45.72 metres (150 feet), depth of 103.85 metres (340.72 feet) and total area of 0.441 hectare (1.09 acres). The subject land contains a detached garage (237.9 square metres / 2551.05 square feet).

The subject lands are currently serviced by private water, sanitary and storm water infrastructure. The surrounding area consists of Agricultural land use.

REPORT

Planning Act

Section 45 (1) of the *Planning Act* sets out criteria to be considered when reviewing Minor Variance Applications.

In reviewing the application staff analyzed the four tests as established in Section 45(1) of the *Planning Act* R.S.O 1990:

- (a) Shall be minor;
- (b) Shall be desirable for the appropriate development or land use of the land, building or structure;
- (c) Shall maintain the general intent and purpose of the Zoning By-Law; and
- (d) Shall maintain the general intent and purpose of the Official Plan.

Conformity with Provincial and Municipal Policies/Plans

Provincial Policy Statement, 2020

The *Provincial Policy Statement* (PPS) provides policy direction on matters of Provincial interest regarding land use planning and development and sets the policy foundation for regulating land use and development of land. All decisions affecting planning matters shall be 'consistent with' policy statements issued under the *Planning Act*.

Section 1.1.4.3 of the *Provincial Policy Statement* identifies that development within rural settlement areas shall give consideration to rural characteristics, the scale of development and the provision of appropriate service levels.

- ***The increased setback is proposed to facilitate proper setbacks from septic infrastructure for the detached additional residential unit and is considered to be appropriate development given the residential use, size of the existing lot of record and consideration of surrounding parcels.***

It is my professional opinion that the minor variance request is consistent with the policies of the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan is a framework that provides policy direction to implement strong and prosperous communities and how to manage growth in Ontario to 2051. The *Planning Act* requires that all decisions that affect a planning matter shall 'conform with' Provincial plans, including but not limited to the Growth Plan.

Section 2.2.a) of the Growth Plan outlines policies on "Where and How to Grow" by directing 'limited' development in 'rural settlements and areas that are not serviced by existing or planned municipal water'.

- ***The proposed development is limited to a proposed detached additional residential unit. This will not result in the creation of a new lot.***

It is my professional opinion that the minor variance request conforms to the policies of the Growth Plan.

County of Brant Official Plan 2012

The Subject lands are designated as Agriculture land use within *Schedule 'A'* of the County of Brant Official Plan.

Official Plan (2012)	Planning Analysis
Section 3.3.1(c) of the County of Brant Official Plan advises that one single detached dwelling shall also be permitted per lot within the Agriculture designation.	The Agriculture designation contemplates for residential use, and associated accessory structures. Additional Residential Units are reviewed as accessory structures.
Section 2.4.5.1(a) of the Official Plan speaks to policies that apply to the development of additional residential units within the County, and that a maximum of one additional residential unit shall be permitted per lot.	The subject lands do not contain any additional residential units, the subject lands do contain a detached garage and a shed.
Section 2.4.5.1(d) of the Official Plan speaks to policies that apply to the development of additional residential units within the County, and that appropriate water and sanitary sewage systems shall be provided to the additional residential unit.	The subject lands are privately serviced, and require the variance to protect their septic system.

Shall maintain the general intent and purpose of the Official Plan;

Based on review of the Official Plan in its entirety, the intent of the Official Plan is maintained as this Minor Variance request will allow for a form of development that conforms to the policies of the Agricultural use designation as it relates to permitted residential uses. The increased setback requested will not negatively impact surrounding residential and non-residential uses. This Minor Variance request maintains the general intent and purpose of the Official Plan.

It is my professional opinion that the minor variance request conforms to the policies of the County of Brant Official Plan.

County of Brant Zoning By-Law 61-16

The subject lands are zoned Agriculture (A) within the County of Brant Zoning By-Law 61-16.

Section 6, Table 6.1.1 of the County of Brant Zoning By-Law identifies the permitted uses for lands zoned as Agriculture (A).

Permitted uses include the following:

- Agricultural Use
- Agriculture-Related Use in accordance with Section 6.3
- Cannabis Production and Processing in accordance with Section 4.23
- Dwelling, Single Detached
- Farm Production Outlet in accordance with Section 4.10
- Forestry Uses
- Greenhouse in accordance with Section 4.12
- On-Farm Diversified Use in accordance with Section 6.4

Additional Residential Units are permitted within all zones within the County of Brant. Where a use is permitted within a zone category, any building and/or structure that is accessory to such use is also permitted.

Section 4, Table 4.4.1 of the County of Brant Zoning By-Law 61-16 advises the required development regulations for additional residential units permitted in the Agriculture (A) zone.

Agriculture (A)	Required	Proposed (Additional Residential Unit)
<i>Lot coverage</i> , Maximum	5% of the total lot area	1.7 %
<i>Street Setback</i> , Minimum	10 m	21.35 m
<i>Interior side yard and rear yard setback</i> , Minimum	3.0 m	9.448 m
Structure <i>height</i> , Maximum, measured as the mean level between the eaves of the dormer and the ridge of the main roof.	7.0 m	7.0m
The additional residential unit shall be located within 40.0m of the primary dwelling unit or within the existing building cluster of the lot.	40 metres	51.5 metres

- *The subject lands containing existing development meet the zone requirements for the A zone.*
- *Minor Variance is requesting relief from the maximum setback for additional residential developments applicable to the A zone requirements to maintain the septic system area*
- *All other requirements of the Zoning By-Law 61-16 are being satisfied.*

It is my professional opinion that the variance maintains the intent of the County of Brant Zoning By-Law 61-16.

Analysis of the Four Tests (Section 45(1) of the *Planning Act* R.S.O 1990)

Four Tests	Discussion – A8-24-JA
That the general intent and purpose of the Official Plan is maintained.	The subject lands have an Official Plan Designation of Agriculture. The subject lands contain an existing detached dwelling and detached garage which is permitted within the Agricultural Designation. The proposed variance will facilitate the construction of a new additional residential unit which is consistent with the surrounding development and consistent with the

	<p>Official Plan policies. It is my professional opinion that the proposal is in keeping with the general intent of the County of Brant Official Plan.</p>
<p>That the intent and purpose of the Zoning By-Law is maintained.</p>	<p>The subject lands are zoned as Agriculture (A) within the Zoning By-Law 61-16. The applicant is seeking relief from Section 4, Subsection 4.5 b(x)(4) to permit a setback of 51.5 metres (169 feet) whereas, 40 metres (131.23 feet) is required to facilitate the construction of a proposed detached additional residential unit. The intent of the 40-metre maximum setback is to ensure no future severances would be permitted within the Agricultural zone for residential lot creation. The proposed application is due to the existing septic field within the 40-metre setback from the primary dwelling on the property. All other zone requirements are being maintained. It is my professional opinion that the proposal is in keeping with the general intent of the Zoning By-Law 61-16.</p>
<p>That the variance is desirable for the appropriate development and use of the land, building or structure</p>	<p>The increased setback will maintain the existing septic field while providing appropriate access for the proposed additional residential unit. The proposed additional residential unit is desirable as it will provide an additional unit in the rural area. The subject lands are currently surrounded by agricultural lands; the proposed change won't interfere with neighboring lands. It is my professional opinion that the proposed variance for an increased setback from the existing dwelling to the proposed additional residential unit will allow for a desirable and appropriate development for the subject lands.</p>
<p>That the requested variance is minor in nature.</p>	<p>Determining whether or not a minor variance request is considered 'minor' is based on review of the merits of the application from both a qualitative and quantitative perspective. A variance may be considered "minor" where the scale of the request is marginal and the proposed relief will not result in a greater than minor adverse impact on adjacent properties, uses, or area.</p> <p>It is my professional opinion that the proposed variance is minor in nature, as all provisions are being satisfied with the exception of the increased setback permitted for the Agricultural zone. The proposed variance is not expected to negatively impact on the surrounding land uses and maintains the intent of the ARU policies.</p>

INTERDEPARTMENTAL CONSIDERATIONS

Agency Comments	
Canada Post	<ul style="list-style-type: none"> No Comments, Should the ADU require separate mail delivery from the mail residential unit, Canada Post will need a unit # or a new civic address # for mail delivery. Please have the customer contact our Customer Service line at 1-800-267-1177 should they require mail delivery.
Development Engineering	<ul style="list-style-type: none"> No comments
Fire	<ul style="list-style-type: none"> No comments
Mississaugas of the Credit First Nation	<ul style="list-style-type: none"> The Mississaugas of the Credit First Nation hereby notifies you that we are the Treaty Holders of the land on which the development of a residential unit will be taking place. This project is located on the Between the Lakes Treaty No. 3, of 1792. Therefore, the MCFN Department of Consultation and Accommodation (DOCA) requires that we be in receipt of all Environmental Study reports and that a Stage 1 Archaeological Study be conducted on the site to determine its archaeological potential and further that the Stage 1 report be submitted to MCFN DOCA for review. If it is determined that a Stage 2 is required, MCFN DOCA is expected to be involved in the field study with MCFN Field Liaison Representation (FLR) on-site participation. This study will be at the cost of the proponent. Planning has incorporated a warning clause under the recommendations section in this report
Parks Capital Planning and Forestry	<ul style="list-style-type: none"> No Comments

PUBLIC CONSIDERATIONS

Notice of this Application, contact information and Public Hearing Date were circulated by mail on June 27, 2024 to all property owners within 60 metres of the subject lands in accordance with Section 45(5) of the *Planning Act* as required.

A site visit along with the posting of the Public Notice sign was completed on June 26, 2024

At the time of writing this report, no public comments have been received.

CONCLUSIONS AND RECOMMENDATIONS

Minor Variance Application **A8-24-JA** is requesting relief from Zoning By-law 61-16, Section 4, Subsection 4.5 b(x)(4) to permit a setback of 51.5 metres (169 feet) whereas, 40 metres (131.23 feet) is required from the primary dwelling unit to facilitate the construction of a proposed detached additional residential unit. The application is required in order to preserve the existing septic system and leach field within the required 40-metre setback distance.

Staff have reviewed the proposed Minor Variance with applicable planning policy (i.e. Planning Act, Provincial Policy Statement (2020), Growth Plan for the Greater Golden Horseshoe (2020), County of Brant Official Plan (2012) and Zoning By-Law 61-16 in review of any comments received from relevant departments, the applicant and the members of the public.

Review of this Minor Variance application has had regard for Section 45(1) of the *Planning Act* R.S.O 1990 and Planning analysis confirms that the requested relief meets the 'four tests'

- The Minor Variance request maintains the general intent and purpose of the Official Plan;
- The Minor Variance request maintains the general intent and purpose of the Zoning By-law;
- The Minor Variance request is desirable for the appropriate development or land use of the land, building or structure.
- The minor variance request is minor in nature.

NOTE: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Citizenship and Multiculturalism (MCM) should be notified immediately.

The applicant understands and agrees that the approval applies only to the proposed variance as noted in this Staff Report A8-24-JA. Should the proposed structure change, a new minor variance application may be required.

Based on review of applicable planning policy and comments received as part of the technical and public circulation, it is my professional recommendation to the Committee of Adjustment that Minor Variance Application **A8-24-JA** be **Approved**.

Jessica Abraham

Jessica Abraham

Junior Planner

Reviewed By: Kayla DeLeye, Supervisor of Development Planning

ATTACHMENTS

- 1. Site Photos
- 2. Site Sketch
- 3. Zoning Mapping
- 4. Official Plan Mapping
- 5. Aerial Photo

COPY TO

- 1. Kayla DeLeye, Supervisor of Development Planning
- 2. Applicant/Agent

FILE # A8-24-JA

In adopting this report, is a bylaw or agreement required?

- By-Law required (No)
- Agreement(s) or other documents to be signed by Mayor and /or Clerk (No)
- Is the necessary By-Law or agreement being sent concurrently to Council? (No)

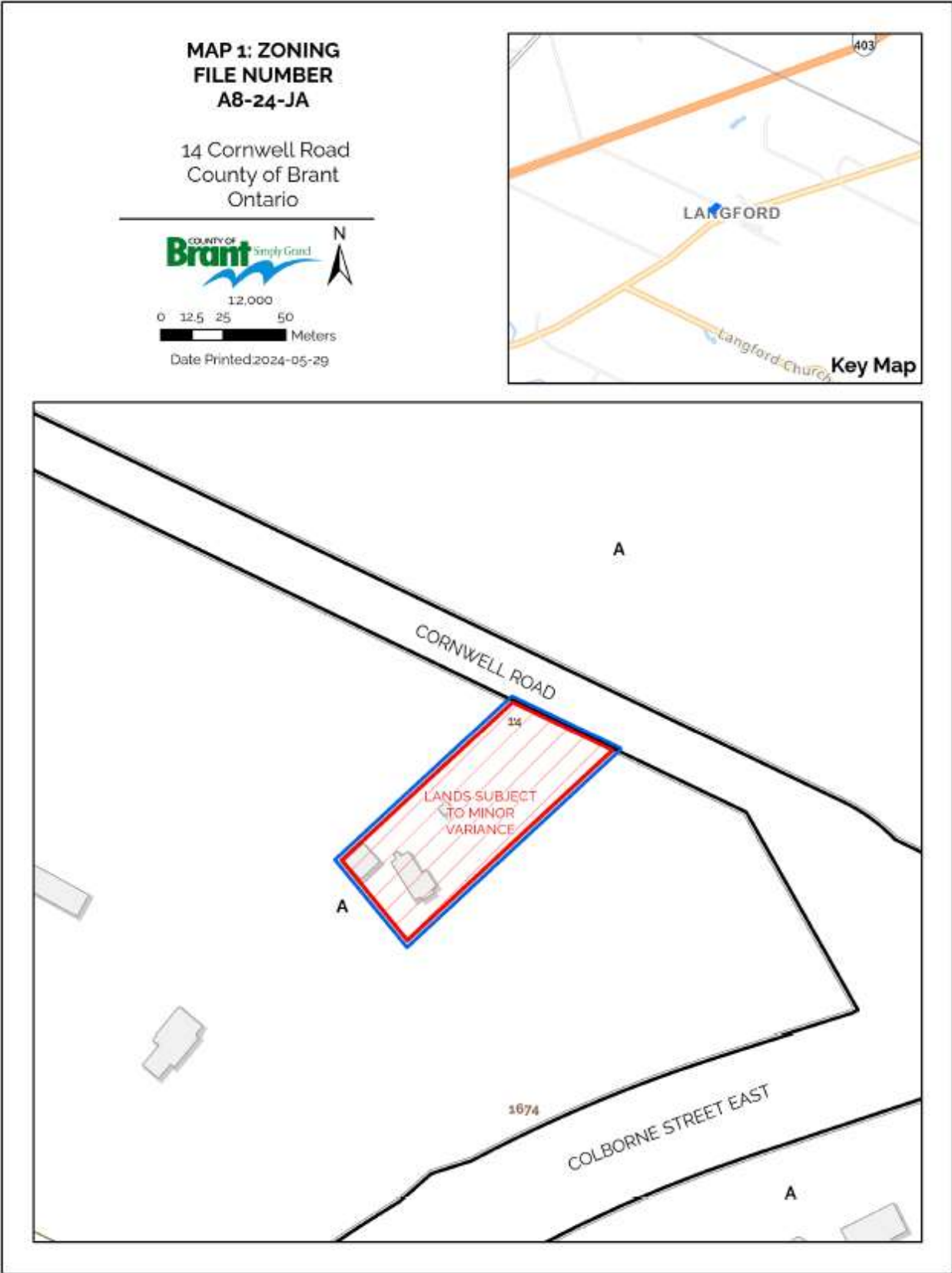
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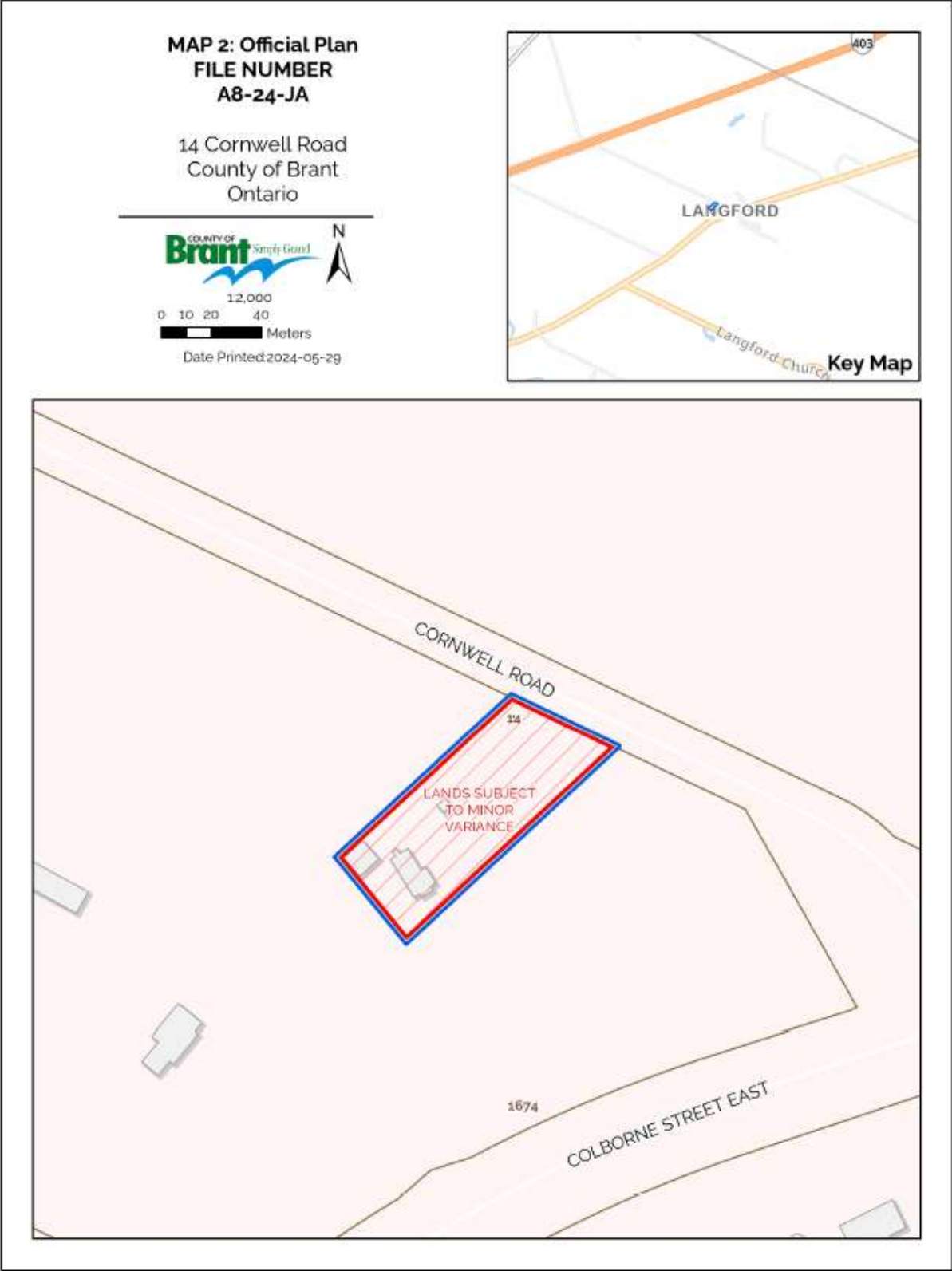
Attachment 1 – Site Photos



Attachment 3 – Zoning Map



Attachment 4 – Official Plan Map



Attachment 5 – Aerial Imagery

MAP 3: AERIAL IMAGERY 2022
FILE NUMBER
A8-24-JA

14 Cornwell Road
County of Brant
Ontario

