



COMMITTEE OF ADJUSTMENT REPORT

DATE: December 19, 2024

REPORT NO: RPT - 0509 - 24

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

FROM: Negin Mousavi Berenjaghi, Development Planning Student

APPLICATION TYPE: Minor Variance

APPLICATION NO: A16-24-NM

LOCATION: 72 Hammond Road

AGENT: J.H. Cohoon Engineering Ltd.

APPLICANT/OWNER: George Lou and Vassilki Karmiris

SUBJECT: Request for a decision on a Minor Variance Application seeking reliefs from Section 4, Table 4.4.1 of the Zoning By-Law

RECOMMENDATION

THAT Application for Minor Variance **A16-24-NM** from J.H. Cohoon Engineering Ltd. on behalf of George Lou and Vassilki Karmiris, Owners of lands legally described as RANGE 2 SHR PT LOT D RP 2R6425 PART 1, in the Geographic Township of Brantford; County of Brant and municipally known as 72 Hammond Road, requesting relief from Section 4, Table 4.4.1 of the Zoning By-Law to permit a maximum lot coverage of 278.73 square metres whereas 140 square metres is permitted and a height of 5.54 metres, whereas, and 5 metres are permitted, **BE APPROVED**, subject to the attached conditions.

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 61-16;
- The relief requested is considered minor in nature and is desirable for the appropriate development and use of the subject lands.
- The proposed variances meet the four tests of the *Planning Act*.

EXECUTIVE SUMMARY

Minor Variance Application **A16-24-NM** is requesting relief from Section 4, Table 4.4.1 of the Zoning By-Law to permit a maximum lot coverage of 278.73 square meters for accessory structures, whereas a maximum of 140 square meters is permitted. In addition, relief from Section 4, table 4.4.1 of the Zoning By-Law is required to permit a maximum accessory structure height of 5.54, whereas 5 metres is permitted.

At the time of preparing this report, the Development Engineering staff commented that there is an existing underground propane gas line from the tank to the house underneath the proposed accessory structure. Should the application be approved, relocation of the propane gas line will be required and has been added as a condition. Additionally, the Environmental Planning staff are unclear as to where silt control fencing is proposed on the grading plan. Either proof of installation of silt control measures including fencing or an updated grading plan that illustrates the location of the light duty silt fence shall be provided prior to the issuance of a building permit. This has also been added as a condition.

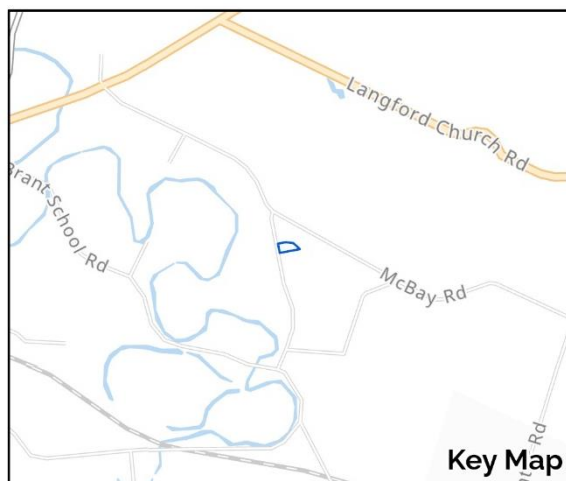
It is my professional opinion that the proposed variance to permit increased maximum lot coverage area and increased maximum structure height for accessory structures is appropriate and meets the four tests of a minor variance as required by the *Planning Act* and therefore recommend that application **A16-24-NM** be **APPROVED**, subject to the attached conditions.

LOCATION / EXISTING CONDITIONS

The subject lands are located east of Hammond Road and west of McBay Road.

Location Map
Application: A16-24-NM
72 Hammond Road

Aerial Image
Application: A16-24-NM
72 Hammond Road



The subject lands have an approximate frontage of 88.6 metres (290.6 ft) along Brant Road a lot area of approximately 1.298 hectares (3.208 acres), and a depth of 185.36 metres (608.1 ft). The lands contain one (1) single detached dwelling.

The surrounding area consists of Natural Heritage, Agriculture, and Countryside land uses.

The subject lands are serviced by a septic system, well and ditches.

REPORT

Planning Act

Section 2(a-s) of the *Planning Act* outlines matters of provincial interest that decision-making bodies shall have regard for.

- The application has regard for:
 - Section 2(p) the appropriate location of growth and development

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.

Consistency and/or Conformity with Provincial and/or Municipal Policies/Plans

Provincial Planning Statement – 2024

The *Provincial Planning 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 2.5.2 of the *Provincial Planning Statement* states that in rural areas, rural settlement areas shall be the focus of growth and development.

- ***The subject lands are located outside the rural settlement areas of the County of Brant.***

Section 2.6.2 of the *Provincial Planning Statement* states that development that can be sustained by rural service levels should be promoted.

- ***The subject property is serviced by a septic system, well and ditches and thereby is supportable by rural service level.***

It is my professional opinion that the request is consistent with the policies of the Provincial Planning Statement.

Brant County Official Plan (2012)

The County of Brant Official Plan sets out the goals, objectives and policies to guide development within the municipality. The Planning Act requires that all decisions that affect a planning matter shall 'conform to' the local Municipal Policies, including but not limited to the County of Brant Official Plan. The Minor Variance application was deemed complete while the 2012 Official Plan was in force and effect and, as such, will be reviewed under the County of Brant Official Plan (2012).

The subject lands are designated as Rural Residential within Schedule ‘A’ of the County of Brant Official Plan.

The following demonstrates conformity with the applicable policies of the County of Brant Official Plan (2012):

Official Plan (2012)	Planning Analysis
<p>Section 2.2.3.3 (page 2-12) of the Official Plan speaks to the general policies for lands designated Rural Residential. In these areas, development shall be limited to infilling on existing lots of record or new draft plans of subdivision within the boundaries of the rural residential designation.</p>	<p><i>The proposed accessory structure is an infill development on an existing lot of record.</i></p>
<p>Section 2.2.3.3 (a) (vii) states that the proposed development shall comply with the Minimum Distance Separation Formulae.</p>	<p><i>On August 21, 2012, the Ontario Municipal Board (OMB) approved an appeal allowing a reduced separation distance of 55 metres, instead of the required 73 metres, subject to two conditions: That no habitable rooms be located closer than 60 metres to the lot line; and that there be no openings on the north-facing side of the dwelling.</i></p> <p><i>It is the staff understanding that the proposed accessory structure is not habitable and will be used for storage purposes; therefore, it is not subject to the Minimum Distance Separation requirement.</i></p>
<p>Section 3.7 (page 3-18) of the Official Plan speaks to the general intent and permitted uses for Rural Residential designation. The purpose is to only recognize existing concentrations of large lot residential development in order to prevent scattered land consumption, inefficient use of existing infrastructure, and non-farm development in the Agriculture designation.</p> <p>Single detached residential dwellings, additional residential units, and bed and breakfast establishments are permitted uses within the Rural Residential designation.</p>	<p><i>The proposed accessory structure is within an existing rural residential area and thereby will not result in scattered land consumption or inefficient use of existing infrastructure.</i></p> <p><i>The existing single-detached dwelling is within the permitted uses.</i></p>
<p><i>Section 3.7.3 (a)(v) states that the pattern of new development shall be logical in the context of the</i></p>	<p><i>The proposed development complies with the surrounding</i></p>

<i>existing development within the Rural Residential area.</i>	developments which consist of single-detached dwellings with their associated accessory structures.
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It is my professional opinion that the request conforms to the policies of the County of Brant Official Plan (2012).

Brant County Official Plan, A Simply Grand Plan (2023)

The County’s new Official Plan – ‘A Simply Grand Plan’ received approval from the Ministry of Municipal Affairs and Housing (MMAH) on Friday, October 18th, 2024. Since the application aligns with the provisions of the currently enacted Official Plan, it will also be reviewed under the County of Brant Official Plan (2023).

The subject lands are designated as “Countryside” and “Natural Heritage System” within Schedule ‘A’ of the County of Brant Official Plan.

Section 2.2 (page 5-33) speaks to the general policies and permitted uses for lands designated as Countryside. Residential uses, including additional residential units, home industries, and home-based businesses are within the permitted uses.

- ***The existing single-detached dwelling is within the permitted uses and associated accessory buildings are also permitted.***

Section 2.10 (page 5-48) states the general policies and permitted uses for the lands designated as Natural Heritage System. No building, structure, use, access, servicing or associated site alteration should be in or within 30 metres of a wetland, permanent watercourse, fish habitat or seepages and springs.

- ***Based on aerial imagery and existing mapping the subject lands contain and are adjacent to a watercourse that is identified as undetermined fish habitat and a woodland. The proposed shop and associated grading are proposed at least 30 m from any natural features. As such, it is anticipated that there not be a negative impact on significant features.***

It is my professional opinion that the request conforms to the policies of the County of Brant Official Plan (2023).

Zoning By-Law 61-16:

The subject lands are zoned as Rural Residential (RR) within the County of Brant Zoning By-Law 61-16.

Section 9, Table 9.1.1 of the County of Brant Zoning By-Law identifies the permitted uses for lands zoned as Rural Residential (RR). Single-detached dwelling is a permitted use within Rural Residential (RR) zones.

- ***The subject lands consist of an existing single-detached dwelling.***

Section 4, Table 4.4.1 of the County of Brant Zoning By-Law 61-16 advises the required development standards for accessory structures within all other residential zones.

All Other Residential Zones	Required	Proposed Accessory Garage
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Lot Coverage, Maximum	140 sq. m	278.73 m
Street Setback, Minimum	20.0 m	71.88
Interior Side Yard Setbacks, Minimum	1.5 m	10.34
Rear Yard Setback, Minimum	1.5 m	49.27
Structure height, Maximum (metres)	5.0 m	5.54

- A Zoning relief is required to allow for an increased maximum lot coverage of 278.73 square metres, whereas 140 square metres is permitted. Additionally, a minor variance is required to allow for a maximum accessory structure height of 5.54 metres, whereas 5 metres is required.
- All other requirements of the Zoning By-Law 61-16 are being satisfied.

It is my professional opinion that the request 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 – A16-24-NM
That the general intent and purpose of the Official Plan is maintained.	The subject lands are designated as “Rural Residential” within the County of Brant Official Plan (2012) and as “Countryside” and “Natural Heritage System” within the County of Brant new approved Official Plan (2023). The proposed accessory structure is permitted under both Official Plans and is outside of the natural heritage area and as such will have no negative impact on the natural heritage features on the site. It is my professional opinion that the proposed variance maintains the intent of the Official Plan.
That the intent and purpose of the Zoning By-Law is maintained.	The subject lands are zoned as Rural Residential (RR) within the Zoning By-Law 61-16. The applicant is seeking relief from Section 4.4.1 to permit an increased accessory structure lot coverage of 180 square meters as well as an increased accessory structure height of 5.54 metres, whereas a lot coverage of 140 square meters and maximum height of 5 metres are permitted, respectively. The proposed minor variance will allow for the establishment of a accessory building for additional storage, no human habitation is permitted within the structure given the MDS setback

	requirements established through the OMB decision. It is my professional opinion that the proposed variance maintains the general intent of the Zoning By-Law.
That the variance is desirable for the appropriate development and use of the land, building or structure	The increased maximum lot coverage and accessory building height are required to allow for additional storage. It is not anticipated that the proposed variance will negatively impact the adjacent land uses or surrounding area as there are existing accessory structures with similar lot coverage and height. It is my professional opinion that the variance will allow for a desirable and appropriate development for the subject lands.
That the requested variance is minor in nature.	<p>Determining whether or not a minor variance request is considered 'minor' is based on the 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>All provisions of the Zoning By-Law are being met with the exception of the maximum accessory structure lot coverage and accessory building height. The variance is required to allow for additional storage space. It is not expected that there will be any negative impacts to the surrounding area or adjacent land uses as a result of the proposal. It is my professional opinion that the proposed variance is minor in nature.</p>

INTERDEPARTMENTAL CONSIDERATIONS

Agency Comments	
Fire	<ul style="list-style-type: none"> No issues with this Minor Variance application.
Environmental Planning	<ul style="list-style-type: none"> Based on aerial imagery and existing mapping the subject lands contain and are adjacent to a watercourse that is identified as undetermined fish habitat and a woodland. The watercourse has a 30-metre setback as per the zoning by-law and the woodland is designated 'Woodlands and Vegetation' in the 2012 Official Plan. The proposed shop and associated grading are proposed at least 30 m from any natural features. As such, it is anticipated that there not be a negative impact on significant features. Silt control notes were added to the grading plan, however, staff are unclear as to where the silt control fencing is proposed on the grading plan. The grading plan will need to be updated prior to the issuance of a building permit.

	<p>Environmental Planning has no concerns subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The proposed shed will be built in the location as illustrated on the Lot Grading Plan prepared by J.H. Cohoon Engineering Limited dated April 26, 2024. 2. Either proof of installation of silt control measures including fencing or an updated grading plan that illustrates the location of the light duty silt fence shall be provided prior to the issuance of a building permit. 3. The applicant shall acknowledge and agree that: <ol style="list-style-type: none"> i) They have been advised of the County of Brant Tree Protection Guide which is available on the County website; ii) Trees in proximity to the proposed works may be injured due to root damage or mechanical damage from potential excavation, and that root damage may create stability issues or cause tree decline/death. It is the owner's responsibility to contact an ISA Certified Arborist to assess trees within proximity of the proposed works during the planning stage, and to ensure that Tree Protection Zone fencing be installed to prevent damage. iii) It is the owner's responsibility to ensure that any injury or destruction of trees is in accordance with the County Good Forestry Practices By-Law No. 70-21. iv) It is the owner's responsibility to ensure that all vegetation and tree removal is in accordance with the Migratory Birds Convention Act and the Endangered Species Act. v) It is the owner's responsibility to ensure that all vegetation and tree removal is in accordance with the Ontario Forestry Act, including the removal of Boundary Trees that exist along property lines.
Parks and Forestry	<ul style="list-style-type: none"> • Parks Capital Planning & Forestry are supportive of comments provided by Environmental Planning and have no further comments at this time.
Development Engineering	<ul style="list-style-type: none"> • The existing underground propane gas line from the tank to the house is underneath the proposed structure. Relocation of the propane gas line will be required. • Sight lines at the existing entrance were checked and found to be sufficient.
Canada Post	<ul style="list-style-type: none"> • Canada Post does not have any comments on this application as this will not affect mail delivery.
Grand River Conservation Authority (GRCA)	<ul style="list-style-type: none"> • It is understood that the minor variance application requests increased maximum lot coverage and accessory building height to facilitate the construction of a detached garage. The proposed structure is located outside of the natural hazards

	<p>and the associated regulated areas. As such, the GRCA has no objection to the minor variance application.</p> <ul style="list-style-type: none"> Consistent with GRCA's approved fee schedule, this application is considered a 'minor' minor variance and the applicant will be invoiced in the amount of \$300.00 for GRCA's review of this application.
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PUBLIC CONSIDERATIONS

Notice of this Application, Contact information and Public Hearing Date were circulated by mail on September 4, 2024, to all property owners within 60 metres of the subject lands in accordance with Section 45(5) of the *Planning Act* as required.

Posting of the Public Notice sign was completed on December 4, 2024 and site visit was completed on December 6, 2024.

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

CONCLUSIONS AND RECOMMENDATIONS

Minor Variance Application **A16-24-NM** is requesting relief from Section 4, Table 4.4.1 of the Zoning By-Law to permit a maximum lot coverage of 278.73 square metres and height of 5.54 metres, whereas, whereas 140 square metres and 5 metres are permitted.

Staff have reviewed the request with applicable planning policy (i.e. Official Plan and Zoning By-Law) in review of any comments received from relevant departments, the applicant and the members of the public.

At the time of preparing this report, the Development Engineering staff commented that there is an existing underground propane gas line from the tank to the house underneath the proposed accessory structure. Should the application be approved, relocation of the propane gas line will be required. Additionally, the Environmental Planning staff are unclear as to where silt control fencing is proposed on the grading plan. Either proof of installation of silt control measures including fencing or an updated grading plan that illustrates the location of the light duty silt fence shall be provided prior to the issuance of a building permit.

It is my professional opinion that the minor variance to permit an increased accessory structure maximum lot coverage and maximum structure height to allow for additional storage, is appropriate and meets the four tests as established in Section 45(1) of the Planning Act R.S.O 1990:

- (a) The request is considered minor;
- (b) The request is desirable for the appropriate development or land use of the land, building or structure;
- (c) The request maintains the general intent and purpose of the Zoning By-Law; and
- (d) The request maintains the general intent and purpose of the Official Plan.

Therefore, it is my professional recommendation that Minor Variance Application **A16-24-NM** **BE APPROVED**, subject to the attached conditions.

Negin Mousavi Berenjaghi

Development Planning Student

Reviewed by: Kayla DeLeye, Supervisor of Development Planning MA, Ec.D, MCIP, RPP

ATTACHMENTS

1. Official Plan Map (2012)
2. Official Plan Map (2023)
3. Zoning Map
4. Aerial Map
5. Detailed Map
6. Site Plan
7. Site Photos

COPY TO

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

FILE # A16-24-NM

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) |

LIST OF CONDITIONS - COMMITTEE OF ADJUSTMENT

1. Prior to the issuance of the certificate, the Applicant will verify that all taxes have been paid. Any outstanding taxes and interest must be paid, prior to the issuance of the certificate.
2. That the comments of Development Engineering are satisfied, specifically the relocation of the existing propane gas line.
3. That the Comments of the Environmental Planner are adhered to specially by providing either proof of installation of silt control measures including fencing or an updated grading plan that illustrates the location of the light duty silt fence, be provided prior to the issuance of a building permit, to the satisfaction of the Environmental Planner.
4. That the relief granted as a result of this Minor Variance Application A16-24-NM come into full force and effect following fulfillment of the above condition to the satisfaction of the County of Brant.
5. That the above condition be satisfied within two years of the date of the decision, with confirmation sent by the Secretary-Treasurer pursuant to 45 (1) of the Planning Act, R.S.O. 1990, otherwise the approval shall lapse.

Attachment 1 – Official Plan Map (2012)

**MAP 2: Official Plan
FILE NUMBER
A16-24-NM**

72 Hammond Road
County of Brant
Ontario

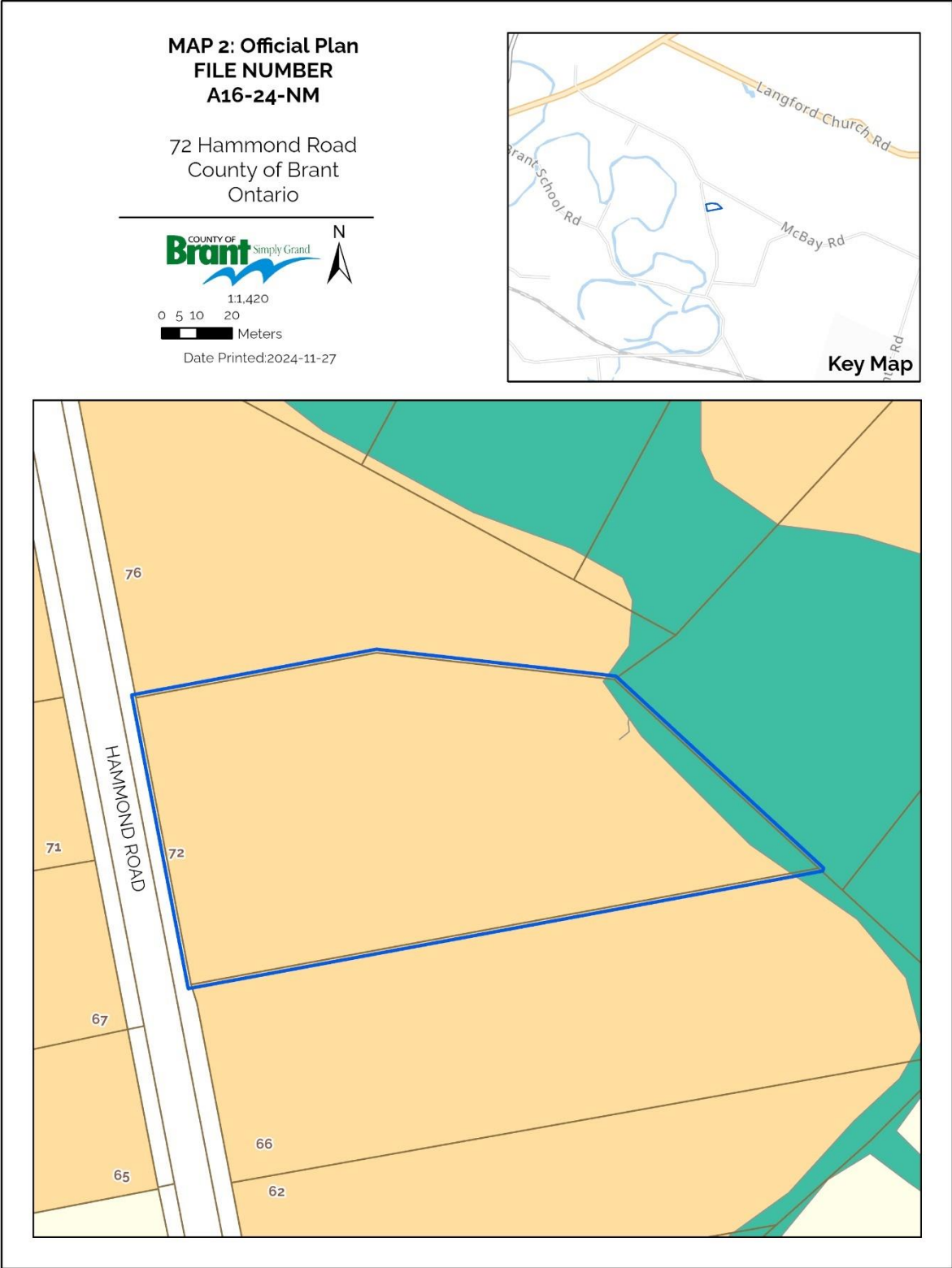


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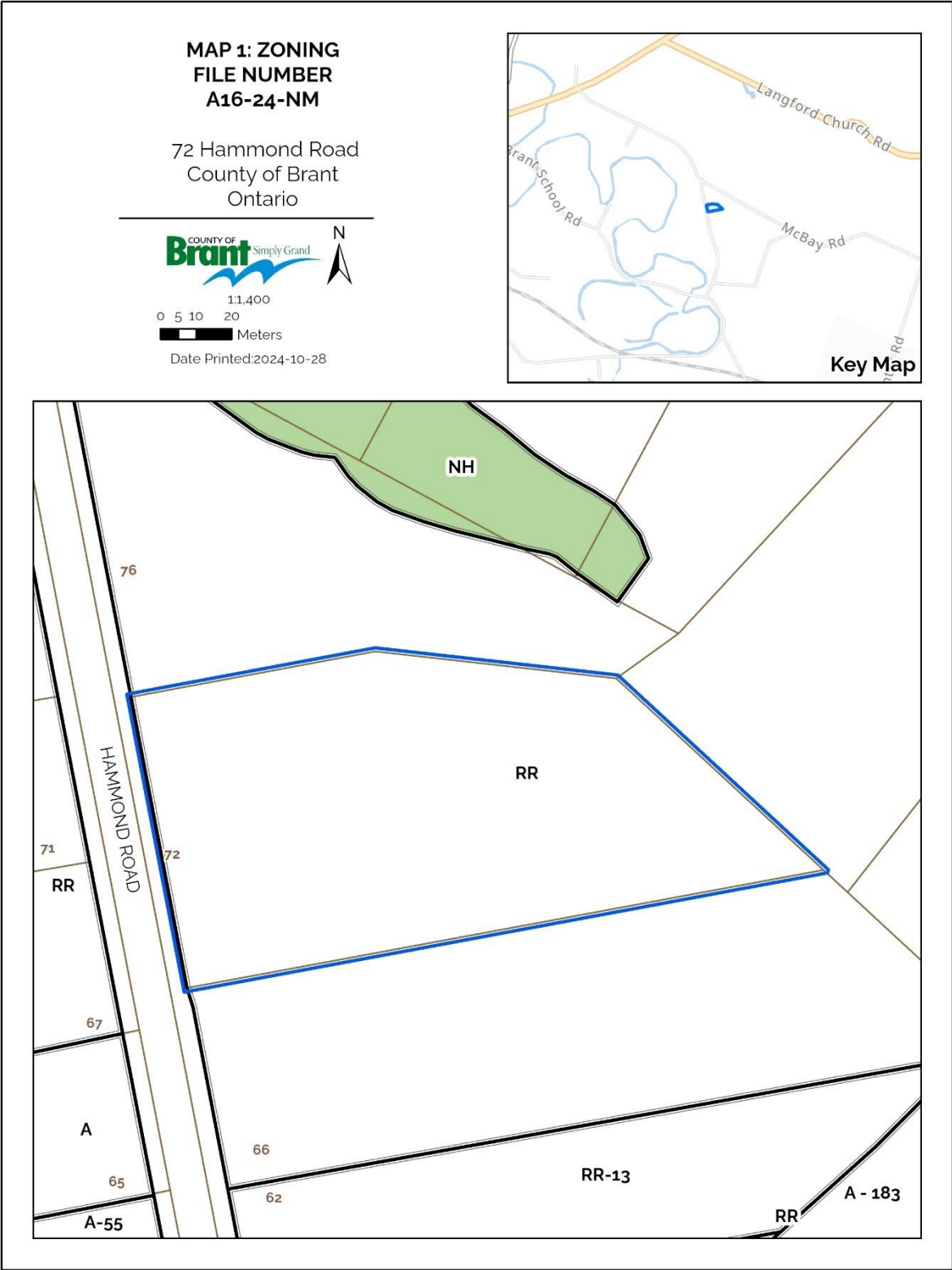
Date Printed: 2024-10-28



Attachment 2– Official Plan Map (2023)



Attachment 3 – Zoning Map



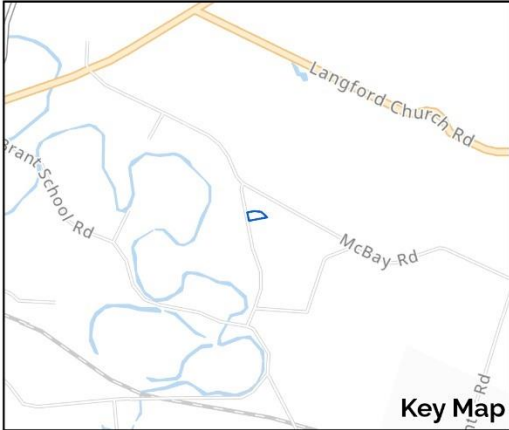
Attachment 4 – Aerial Map

**MAP 3: AERIAL IMAGERY 2024
FILE NUMBER
A16-24-NM**

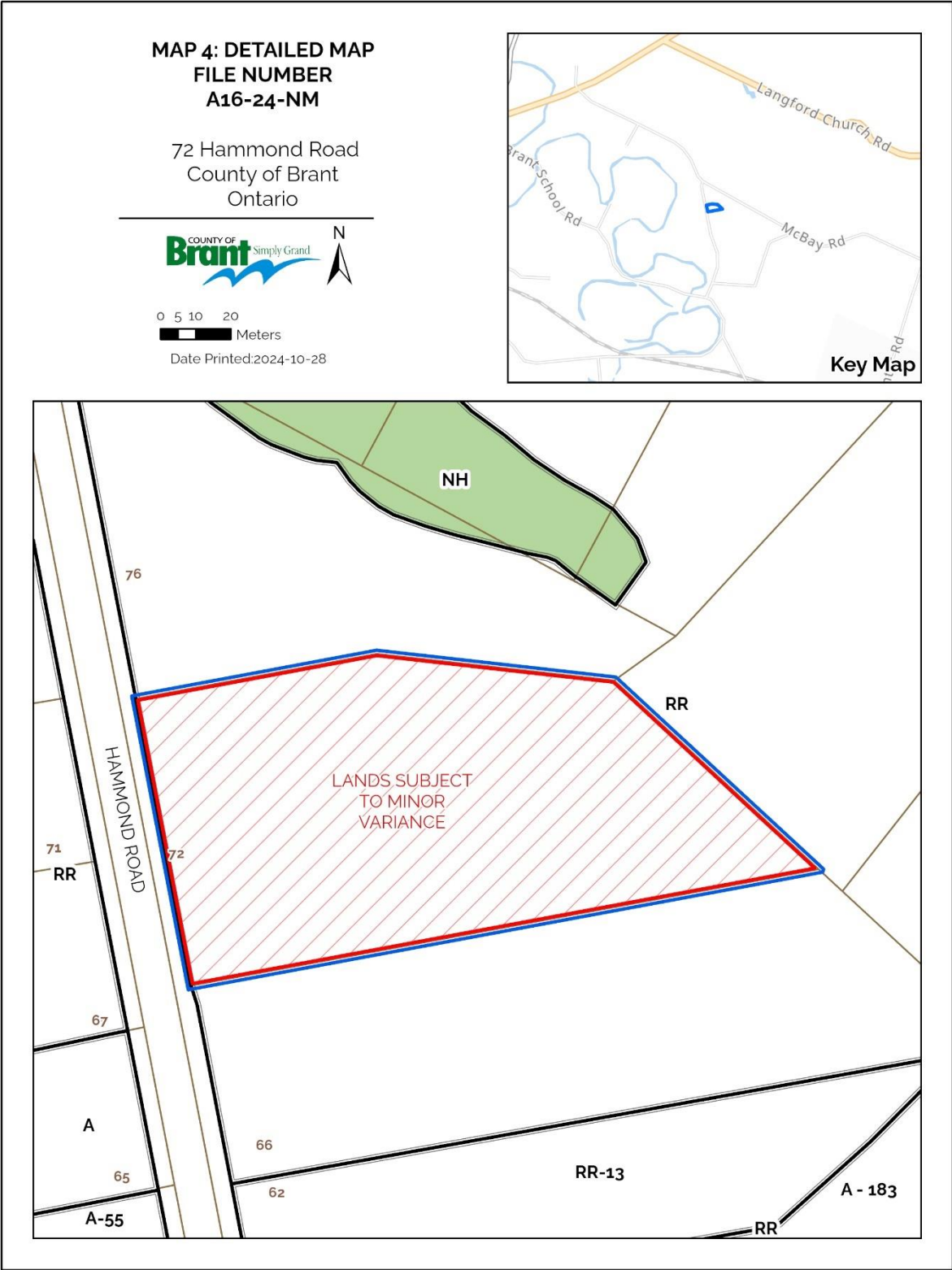
72 Hammond Road
County of Brant
Ontario



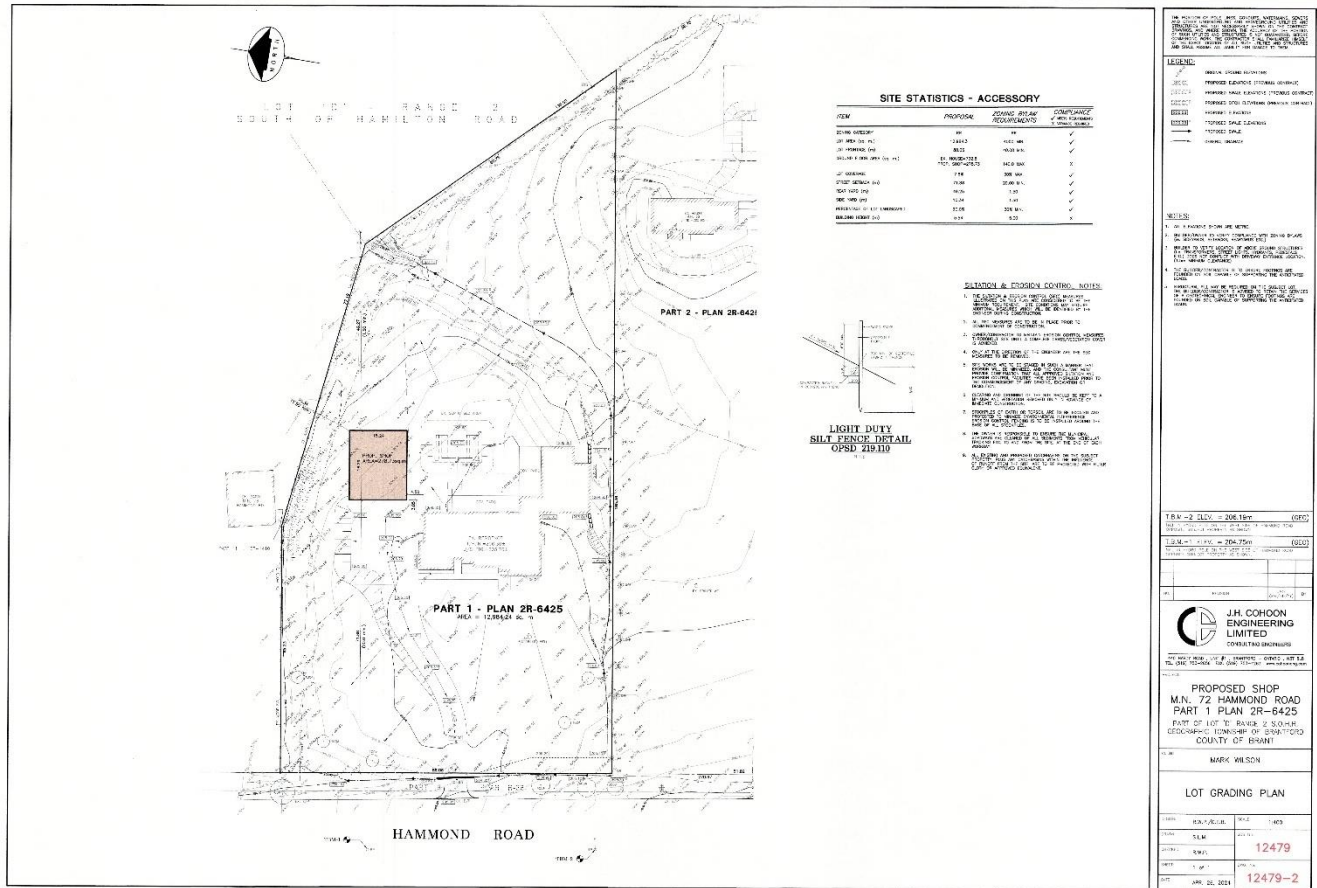
Date Printed: 2024-10-28



Attachment 5 – Detailed Map



Attachment 6 – Site Plan



Attachment 7 - Site Photos



Public Notice Sign



Livestock Barn Located at 76 Hammond Road

