



COMMITTEE OF ADJUSTMENT

Thursday, July 18, 2024, 6:00 p.m.

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1. CALL TO ORDER	
2. ADOPTION OF AGENDA	
3. CONFLICT OF INTEREST	
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4. REQUEST FOR WITHDRAWAL OR ADJOURNMENT	
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7.	NEW BUSINESS	
8.	NEXT MEETING DATE Thursday, August 15, 2024 at 6:00pm.	
9.	ADJOURNMENT	



Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-098 **COMMITTEE DATE:** 2024-06-20
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Minor Variance Application A-08/24 – 240 Nassau Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-08/24 for 240 Nassau Street be approved.

2. PURPOSE

The applicant is requesting relief for the maximum lot coverage requirements for an accessory structure on the subject lands to permit a covered porch. To accommodate the proposal, the following variance is requested:

1. Maximum lot coverage for an accessory structure of 8%, as required in the Zoning By-law, to 10% for the proposed covered porch.

The application drawings are attached as **Appendix I**.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 240 Nassau Street, located on the north side of Johnson Street and the east side of Nassau Street, in the urban area of Old Town. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 775 square metres, with a frontage of 18.36 metres on Nassau Street. The lands are permitted to contain one single-detached dwelling, to be connected to municipal water and sanitary services, as a result of a site-specific Zoning By-law Amendment (By-law No. 4316ER-23) that was approved by Town Council in July 2023. The site-specific zoning amendment allowed for a minimum rear and interior side yard setback for accessory structures of 1.2 metres, and a maximum height of an accessory building or structure of 6.7 metres. The site-specific Zoning By-law is attached as **Appendix III** to this report.

Following the Zoning By-law Amendment approval, the associated Consent application (File No. B-23/23) was approved in August 2023 by the Committee of Adjustment to sever the subject lands, subject to conditions which have since been cleared.

The surrounding lands are characterized by residential uses.

4. DISCUSSION / ANALYSIS

4.1 Minor Variance Tests – Subsection 45(1), *Planning Act*, R.S.O. 1990, c.P.13

Subsection 45(1) of the *Planning Act* establishes four tests for considering minor variances:

1. Is the requested variance minor in nature?

The proposed covered porch is located in the rear yard and will not be visible from the street. The requested variance would facilitate the covering of a patio within the rear yard, and provide for additional covered amenity space. The covered porch complies with all other provisions of the Zoning By-law, including exceeding the minimum interior side yard and rear yard setbacks as well as being lesser than the maximum height permissions. The covered porch is not anticipated to pose adverse impacts to the neighbouring properties.

Staff consider the requested variance to be minor in nature.

2. Is the requested variance desirable for the appropriate development or use of the land, building or structure?

The requested variance would permit the construction of a seasonal covered porch. The covered porch will utilize bug/fly screening, which would limit the ability to use this space in the colder months of the year. While the covered porch is an addition to the accessory structure, it would not increase the number of bathrooms or bedrooms. The massing and scale of the sunroom is appropriate when compared to surrounding properties.

Staff consider the variance to be desirable for the development of the land.

3. Does the requested variance maintain the general intent and purpose of the By-law?

The subject lands are zoned “Established Residential (ER-105(b))” in Zoning By-law 4316-09, as amended, and a single-detached and accessory structure is permitted. Aside from the request to increase lot coverage for the accessory structure, the proposal will continue to meet all provisions of the ER-105(b) zone.

Some nearby properties have a higher lot coverage than the subject lands, including permissions for increased lot coverage for accessory structures. The proposed increase in coverage for the accessory structure would not be uncharacteristic for the surrounding area. The covered porch is within the permitted height and is setback appropriately from neighbouring properties, in accordance with the ER-105(b) zone.

The requested variance maintains the general intent and purpose of the Zoning By-law.

4. Does the requested variance maintain the general intent and purpose of the Official Plan?

The subject lands are designated “Established Residential” in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended (“Town OP”). Accessory buildings and structures are permitted uses.

The goals and objectives of the Residential designation as set out in the Official Plan outline that new development or redevelopment must be appropriately located and compatible with

surrounding land uses to minimize the potential for land use compatibility impacts, as well as promote the maintenance and rehabilitation of the existing housing stock.

The proposed covered porch is appropriately located on the subject lands and, accordingly, it is not anticipated that the proposed increase in lot coverage for the accessory structure would result in incompatibility with neighbouring lands.

The requested variances maintains the general intent and purpose of the Official Plan.

4.2 Town, Agency and Public Comments

The application was circulated to all appropriate Town Departments and external agencies, and public notice of the application was provided as required by the *Planning Act*. The following responses were received:

Town Departments

Building – No objections. A building permit will be required for the covered porch.

Finance – No objections.

Fire and Emergency Services – No objections.

Heritage – No objections. The subject lands have been cleared of having archaeological potential.

Operations – No objections.

Agencies

No external agency comments were received at the time this report was prepared.

Public

No public comments were received at the time this report was prepared.

5. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

6. OPTIONS

The Committee may approve, refuse or modify the requested application.

7. FINANCIAL IMPLICATIONS

Not applicable.

8. ENVIRONMENTAL IMPLICATIONS

Not applicable.

9. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the application, notice of the decision will be given as set out in the *Planning Act*. The decision of the Committee of Adjustment is subject to a 20-day appeal period from the date of the decision. If no appeals are received during the appeal period, the decision is final.

Changes to provincial legislation have been made by way of Bill 23 and third-party appeals from private property owners are no longer permitted.

10. CONCLUSION

Planning Staff recommend approval of Minor Variance Application A-08/24 as the requested variance is considered to be minor in nature, appropriate for the development or use of the land, building or structure, and is considered to maintain the general intent and purpose of the By-law and the Official Plan, pursuant to Subsection 45(1) of the *Planning Act*.

11. PREVIOUS REPORTS

- CDS-23-134 – Zoning By-law Amendment ZBA-03-2023 Recommendation Report
- CDS-23-164 – Consent Application B-23/23 – 240 Nassau Street

12. APPENDICES

- Appendix I – Site Plan
- Appendix II – Location Map
- Appendix III – By-law 4316ER-23

Respectfully submitted:

Prepared by:



**John Federici, MCIP, RPP
Senior Planner**

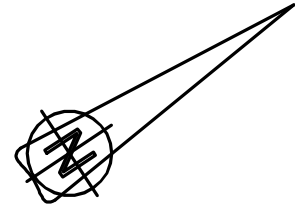
Recommended by:



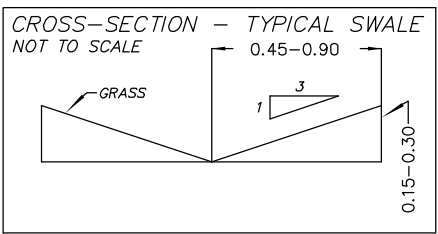
**Aimee Alderman, MCIP, RPP
Manager of Planning**

ASSOCIATION OF ONTARIO
LAND SURVEYORS
PLAN SUBMISSION FORM
2193449

THIS PLAN IS NOT VALID
UNLESS IT IS AN EMBOSSED
ORIGINAL COPY
ISSUED BY THE SURVEYOR
In accordance with
Regulation 1026, Section 29(3).



NASSAU (8th STREET; TWP PL 86) STREET
NAME CHANGED BY BY-LAW 63-1572;
REGISTERED AS INST. R0102202
PIN 46396 - 0001 (LT)



PLAN OF SURVEY SHOWING TOPOGRAPHICAL INFORMATION
AND SITE PLAN FOR NEW CONSTRUCTION
PART LOTS E AND F
TOWNSHIP PLAN 80
TOWN OF NIAGARA-ON-THE-LAKE
REGIONAL MUNICIPALITY OF NIAGARA

SCALE 1 : 250
RASCH & HYDE LTD.
ONTARIO LAND SURVEYORS

LEGEND & NOTES

- DENOTES SURVEY MONUMENT PLANTED
- DENOTES SURVEY MONUMENT FOUND
- SIB DENOTES STANDARD IRON BAR (25mmX25mmX120cm)
- SSIB DENOTES SHORT STANDARD IRON BAR (25mmX25mmX60cm)
- IB DENOTES IRON BAR (15mmX15mmX60cm)
- IBR DENOTES ROUND IRON BAR (20mm DIA X 60cm)
- IT DENOTES IRON TUBE
- CC DENOTES CUT CROSS
- SM DENOTES STONE MONUMENT
- WIT DENOTES WITNESS
- OU DENOTES ORIGIN UNKNOWN
- PIN DENOTES PROPERTY IDENTIFIER NUMBER
- (1339) DENOTES W. A. MASCOE, OLS
- P1 DENOTES SURVEYOR'S REAL PROPERTY REPORT BY J. D. BARNES, OLS, DATED MARCH 10, 2022 (FILE: 21-16-337-00)
- P2 DENOTES SURVEYOR'S REAL PROPERTY REPORT BY W. A. MASCOE, OLS, DATED APRIL 23, 2012 (FILE: 12-5)
- P3 DENOTES TOWNSHIP PLAN 80
- D1 DENOTES R0678460 (PIN 46396-0004(LT))
- HP DENOTES HYDRO/UTILITY POLE
- ANC DENOTES GUY ANCHOR
- OUL DENOTES OVERHEAD HYDRO/UTILITY LINE
- CB DENOTES CATCH BASIN
- DICB DENOTES DITCH INLET CATCH BASIN
- MH DENOTES MANHOLE
- (INV) DENOTES INVERT
- Ø DENOTES DIAMETER
- BDF DENOTES BOARD FENCE
- RIF DENOTES ROD IRON FENCE
- WV DENOTES WATER VALVE
- HH DENOTES HAND HOLE (CONTROL BOX)
- PED DENOTES COMMUNICATION PEDESTAL
- TD DENOTES TOP OF DITCH
- C-LD DENOTES CENTRELINE OF DITCH
- DENOTES DECIDUOUS TREE (TREE CANOPY NOT TO SCALE)
- DENOTES CONIFEROUS TREE (TREE CANOPY NOT TO SCALE)
- 100.00 DENOTES PROPOSED FINISHED GRADE
- DENOTES PROPOSED SURFACE RUN-OFF
- RWL ○ DENOTES RAIN WATER LEADER
- S/D ○ DENOTES RAIN WATER LEADER
- SW 100.00 DENOTES SWALE ELEVATION
- SW/HP DENOTES SWALE HIGH POINT

N-NORTH; S-SOUTH; W-WEST; E-EAST

FOR THE PURPOSES OF NOTATIONS "N" OR "S", ETC.
JOHNSON STREET IS CONSIDERED TO BE NORTH-SOUTH; AND
NASSAU STREET IS CONSIDERED TO BE EAST-WEST

BEARING NOTE

BEARINGS HEREON ARE GRID, UTM ZONE 17, (NAD 83-CSR5 :
CBN96 (Epoch 2000.0)) DERIVED FROM OBSERVED REFERENCE POINTS
(ORP's) USING THE CAN-NET VRS NETWORK AND ARE REFERRED TO
THE CENTRAL MERIDIAN OF UTM ZONE 17 (81° WEST LONGITUDE)

ROTATION NOTE

FOR THE PURPOSES OF COMPARISON THE ASTRONOMIC BEARINGS
-ON P2 HAVE BEEN ROTATED 1°3'40" COUNTER-CLOCKWISE
-THE BEARINGS ON P1 HAVE NOT BEEN ROTATED

SURVEYOR'S CERTIFICATE

- I CERTIFY THAT :
- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, AND THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
 - THIS SURVEY WAS COMPLETED ON THE 7th DAY OF DECEMBER, 2023.

DECEMBER 15, 2023
DATE
HAROLD D. HYDE
ONTARIO LAND SURVEYOR

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RASCH + HYDE LTD. Ontario Land Surveyors		
P.O. Box 6, 1333 Highway #3 East, Unit B DUNNVILLE, ONT, N1A 2X1 905-774-7188 (FAX 905-774-4000)	P.O. Box 550, 74 Jarvis Street FORT ERIE, ONT, L2A 5Y1 905-871-9757 (FAX 905-871-9748)	
HAROLD D. HYDE O.L.S.		
SCALE 1 : 250	SURVEY : 22F117 S&G	DRWN BY : J.H.

INDIVIDUAL LOT GRADING CERTIFICATE	
AS CONSTRUCTED GRADING	PROPOSED GRADING
I HEREBY CERTIFY THAT I HAVE TAKEN THE FINISHED ELEVATIONS SHOWN () WITH RESPECT TO THE GRADING OF THIS LOT. FURTHER, I HEREBY CERTIFY THAT THE LOT GRADING AS CONSTRUCTED SATISFIES THE OBJECTIVES OF THE LOT GRADING AND DRAINAGE POLICY OF THE TOWN.	I HEREBY CERTIFY THAT THE PROPOSED BUILDING WILL BE COMPATIBLE WITH THE PROPOSED GRADING AND THE OBJECTIVES OF THE LOT GRADING AND DRAINAGE POLICY. FURTHER, I CERTIFY THAT THE EXISTING DRAINAGE ONTO THIS PROPERTY HAS BEEN ACCOMMODATED AND THAT ALL DRAINAGE SHALL BE DIRECTED TO AN ACCEPTABLE OUTLET.
DATE LEVELS TAKEN _____	DATE LEVELS TAKEN _____
NAME _____	NAME HAROLD D. HYDE O.L.S.
SIGNATURE _____	SIGNATURE <i>[Signature]</i>
DATE _____	DATE DECEMBER 15, 2023
ACCEPTED BY TOWN _____	ACCEPTED BY TOWN _____
DATE _____	DATE _____

CAUTION

COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

DISTANCES ARE ADJUSTED GROUND DISTANCES AND CAN BE CONVERTED TO GRID DISTANCES BY MULTIPLYING BY THE AVERAGE COMBINED SCALE FACTOR (CSF = 0.99989701)

ELEVATION NOTE

ELEVATIONS ARE GEODETIC, DERIVED BY GPS OBSERVATIONS, REFERRED TO GEODETIC SURVEY OF CANADA BENCHMARK 0011931U1995 (AKA 31U1995) HAVING AN ELEVATION OF 87.442m (CGVD-1928:1978)

LOCATION : NIAGARA-ON-THE-LAKE FUNDAMENTAL BENCHMARK IN SIMCOE PARK, 3.7 M NORTHEAST OF NORTHEAST LIMIT OF PICTON STREET, 44.5 M SOUTHEAST OF SOUTHEAST LIMIT OF KING STREET.

ALL FUTURE GRADE WORK ON SITE TO BE BASED ON SITE BENCHMARK. ANY ELEVATION DISCREPANCIES TO BE REPORTED TO RASCH & HYDE LTD.

METRIC NOTE

DISTANCES AND ELEVATIONS SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

LOT DETAILS
(PART 1)

TOTAL LOT AREA: 967.2 s.m. (100%)
PROPOSED HOUSE: 259.9 s.m. (26.9%)
PROPOSED COVERED DECK (FRONT): 41.6 s.m. (4.3%)
PROPOSED COVERED DECK (SIDE): 17.2 s.m. (1.8%)

LOT DETAILS
(PART 2)

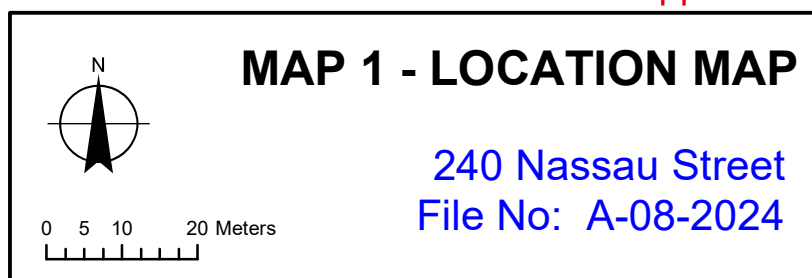
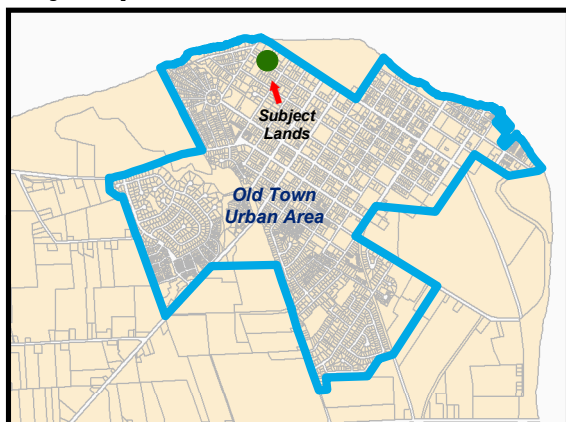
TOTAL LOT AREA: 775.1 s.m. (100%)
PROPOSED HOUSE: 131.3 s.m. (16.9%)
PROPOSED GARAGE: 71.8 s.m. (9.3%)
PROPOSED COVERED PORCH (FRONT): 29.6 s.m. (3.8%)
PROPOSED COVERED PORCH (REAR): 14.6 s.m. (1.9%)
PROPOSED COVERED BREEZEWAY: 4.0 s.m. (0.5%)

PROPOSED GRADES
(PART 1)

FFE: 82.85
T/FDN: 82.45
GRADE @ APRON: 82.25
F.G.F.: 82.25
T/FTG: 79.55 & 78.94
U.S./FTG: 79.40 & 78.79

PROPOSED GRADES
(PART 2)

FFE: 82.95
T/FDN: 82.55
GRADE @ APRON: 82.35
F.G.F.: 82.45
T/FTG: 79.68
U.S./FTG: 79.53



Explanation of the Purpose and Effect of
By-law 4316ER-23

The subject lands are described as 240 Nassau Street, Niagara-on-the-Lake, more particularly described as Part of Lots E & F, Plan 86; Town of Niagara-on-the-Lake, Regional Municipality of Niagara.

Purpose

The purpose of this By-law is to rezone the subject lands to facilitate a future Consent application to create one new lot for single-detached dwellings fronting onto Nassau Street and Johnson Street.

Effect

The effect of this By-law is to rezone the subject lands from “Established Residential (ER)” to “Established Residential (ER-105(a)) – Site Specific Zone”, and “Established Residential (ER-105(b)) – Site Specific Zone.”

<p>Owner: Susan Russell & Catherine Russell-Powers File Number: ZBA-03-2023 Report Number: CDS-23-134 Assessment Roll Number: 262701000607000</p>

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 4316ER-23**

240 Nassau Street - Roll No. 262701000607000

A BY-LAW TO AMEND BY-LAW NO. 4316-09, AS AMENDED, ENTITLED
A BY-LAW TO REGULATE THE USE OF LAND AND THE ERECTION,
USE, BULK, HEIGHT, LOCATION, AND SPACING OF BUILDINGS AND
STRUCTURES WITHIN THE TOWN OF NIAGARA-ON-THE-LAKE.

WHEREAS the Town of Niagara-on-the-Lake Council is empowered to enact this By-law by virtue of the provisions of Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

AND WHEREAS this By-law conforms to the Town of Niagara-on-the-Lake Official Plan.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE enacts as follows:

1. Schedule "A-3" of By-law 4316-09, as amended, is further amended by changing the zoning of the subject lands identified on Map 'A' attached to and forming part of this By-law from "Old Town Community Zoning District – Established Residential (ER)" to "Old Town Community Zoning District – Established Residential (ER-105(a)) – Site Specific Zone," and "Old Town Community Zoning District – Established Residential (ER-105(b)) – Site Specific Zone."
2. That Subsection 7.14 Site Specific Exceptions of By-law 4316-09, as amended, is hereby further amended by adding the following:

7.14.105 – 240 Nassau Street – See Schedule ‘A-3’ (ER-105(a), ER-105(b))

7.14.105A ER-105(a) Zone Requirements

In lieu of the corresponding provisions of Subsection 7.1.2, the following provisions shall apply to the subject lands identified as ER-105(a) on Schedule ‘A-3’:

(a)	Minimum lot frontage	22.8 metres
(g)	Maximum lot coverage	34%

7.14.105B ER-105(b) Zone Requirements

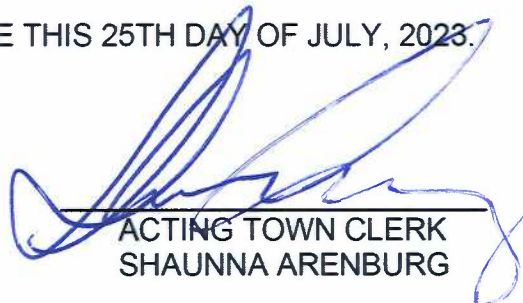
In lieu of the corresponding provisions of Subsection 7.1.2, and in addition to such provisions, the following provisions shall apply to the subject lands identified as ER-105(b) on Schedule ‘A-3’:

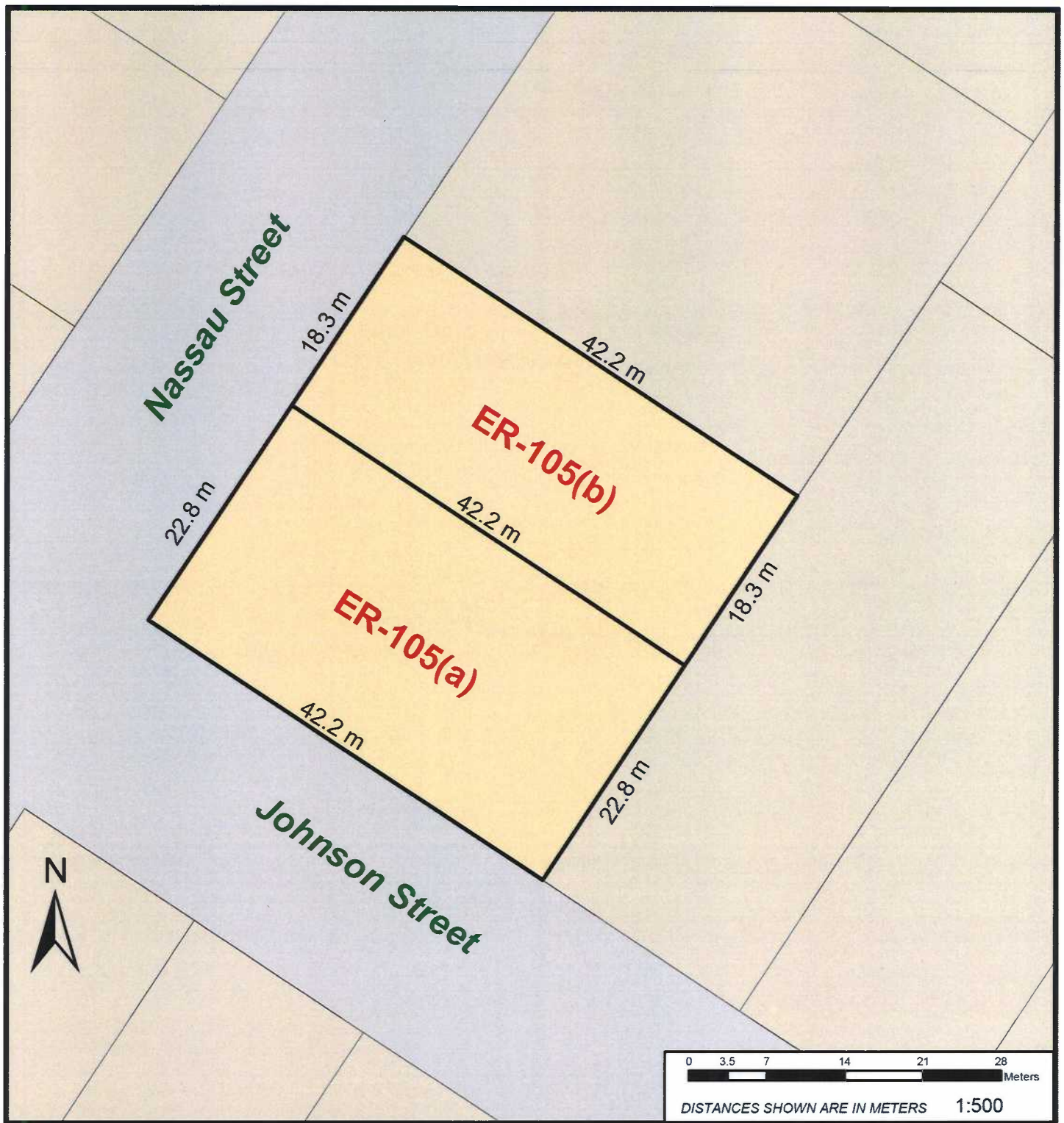
(a)	Minimum lot frontage	18.3 metres
(f)	Minimum rear and interior side yard setback for accessory buildings	1.2 metres
(k)	Maximum height of an accessory building or structure	6.7 metres

3. All other provisions of Zoning By-law 4316-09, as amended, shall continue to apply to the subject lands.
4. That the effective date of this By-law shall be the date of final passage thereof.


READ A FIRST, SECOND AND THIRD TIME THIS 25TH DAY OF JULY, 2023.


LORD MAYOR
GARY ZALEPA


ACTING TOWN CLERK
SHAUNNA ARENBURG



MAP 'A' ATTACHED TO BY-LAW 4316ER-23, BEING AN AMENDMENT TO SCHEDULE "A-3" OF ZONING BY-LAW 4316-09, AS AMENDED, OF THE TOWN OF NIAGARA-ON-THE-LAKE AS PASSED ON THIS 25th DAY OF JULY, 2023.


LORD MAYOR
GARY ZALEPA


ACTING TOWN CLERK
SHAUNNA ARENBURG



Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-112 **COMMITTEE DATE:** 2024-07-18
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Minor Variance Application A-13/24 – 14695 Niagara River Parkway

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-13/24 for 14695 Niagara River Parkway be approved, subject to the following condition:
 - 1.1.1 That the applicant/owner provides a written undertaking, to the satisfaction of the Niagara Region and the Town, confirming that the accessory structure does not contain any plumbing, bedroom and/or living spaces, and is built in accordance with the submitted plans.

2. PURPOSE

The applicant is proposing the construction of an accessory structure (shed) and decorative privacy wall. To accommodate the proposal, the following variances have been requested:

1. Minimum side yard setback from 3.05 metres, as required in the Zoning By-law, to 0.77 metres for the proposed utility shed and decorative privacy wall; and
2. To permit an accessory structure (decorative privacy wall) in front of the existing dwelling, whereas an accessory structure is only permitted to the rear of the front line of the main building under Section 3.4 of the Zoning By-law.

The application drawings are attached as **Appendix I**.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 14695 Niagara River Parkway, lying on the east side of the Niagara River Parkway, north of Line 8 Road, and west of the Niagara River, in the agricultural area of the Town. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 4,842 square metres and a frontage of 51.7 metres along Niagara River Parkway. The lands currently contain an existing single-detached dwelling that is serviced by municipal water and a private septic system. Surrounding lands contain agricultural and rural residential uses.

4. DISCUSSION / ANALYSIS

4.1 Minor Variance Tests – Subsection 45(1), *Planning Act*, R.S.O. 1990, c. P.13

Subsection 45(1) of the *Planning Act* establishes four tests for considering minor variances:

1. Is the requested variance minor in nature?

The requested variances facilitate the construction of an accessory structures that remain sufficiently setback from the interior lot line and abutting property. The proposed decorative wall would act as a screening barrier to mitigate any streetscape impacts that could arise from the proposed shed. Although the wall protrudes past the front line of the main dwelling, Staff do not anticipate that the location of the wall would result in adverse impacts to the overall streetscape and abutting lands. Further, the structures will not be visible from the street, as a hedge and pillars are located along the front of the subject lands.

Staff consider the requested variances to be minor in nature.

2. Is the requested variance desirable for the appropriate development or use of the land, building or structure?

As per the applicant's submission, the shed would serve as storage for the residential use of the lands, such as sheltering bicycles and outdoor furniture. Despite being within the required interior side yard setback, sufficient separation is provided between the interior lot line and the structures, which would allow for ongoing maintenance of the structures and is not anticipated to result in adverse drainage or privacy concerns to the neighbouring property. The decorative privacy wall offers screening to the proposed shed, to further enhance the design and integration of the shed with the existing dwelling and lands.

Staff consider the proposal to be desirable for the development and use of the lands.

3. Does the requested variance maintain the general intent and purpose of the By-law?

The subject lands are zoned "Rural Residential (RR)" in Zoning By-law 500A-74, as amended. Single-detached dwellings and accessory structures are permitted uses.

The majority of the building envelope on the subject lands is currently occupied by existing structures and driveway areas, leaving little space for additional structures without the need for a variance. The accessory structures are proposed to be lesser than the maximum height permissions in the Zoning By-law, the decreased interior side yard setback is not anticipated to pose impacts to the abutting lands.

While the proposed shed aligns with the front face of the main dwelling, the proposed decorative wall protrudes past the dwelling face and is considered to be an accessory structure in front of the front line of the main dwelling. A previous minor variance was approved to permit accessory structures (pillars and gates) in front of the existing dwelling. The requested variances facilitate a similar proposal, for an accessory structure in front of the front line of the dwelling, and no known impacts have resulted since the approval of the previous variance for accessory structures in front of the existing dwelling. The accessory structures will also not be visible from the street due to the existing pillars and hedge along the front lot line.

The requested variances maintain the general intent and purpose of the By-law.

4. Does the requested variance maintain the general intent and purpose of the Official Plan?

The subject lands are designated “Non-Farm Rural” in the Town Official Plan (2017 consolidation, as amended). Rural residential development on private sanitary sewer systems and accessory structures are permitted uses.

The goals and objectives of this designation aim to recognize the non-farm nature of the area, and to permit a limited amount of additional development compatible with existing uses. The proposed storage shed and decorative privacy wall are secondary to the main residential use of the subject lands, and Staff consider them to be compatible with existing uses.

The requested variances maintain the general intent and purpose of the Official Plan.

4.2 Town, Agency and Public Comments

This application was circulated to all appropriate Town Departments and external agencies, and public notice of the application was provided as required by the *Planning Act*. The following responses were received:

Town Departments

Building – No objections.

Finance – No objections.

Fire and Emergency Services – No objections.

Heritage – No objections. Standard discovery protocol has been provided to the applicant.

Operations – No objections.

Agencies

Niagara Region – No objections. Condition requested regarding confirmation of no plumbing, bedroom or living spaces in the structure.

Public

No public comments were received at the time this report was prepared.

5. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

6. OPTIONS

The Committee may approve, refuse or modify the requested application.

7. FINANCIAL IMPLICATIONS

Not applicable.

8. ENVIRONMENTAL IMPLICATIONS

There are no environmental implications relating to the proposed variances. No removal of trees or mature vegetation is anticipated to accommodate the proposal.

9. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the application, notice of the decision will be given as set out in the *Planning Act*. The decision of the Committee of Adjustment is subject to a 20-day appeal period from the date of the decision. If no appeals are received during the appeal period, the decision is final.

Changes to provincial legislation have been made by way of Bill 23 and third-party appeals from private property owners are no longer permitted.

10. CONCLUSION

Planning Staff recommend approval of Minor Variance Application A-13/24, subject to the recommended condition, as the requested variances are considered to be minor in nature, appropriate for the development or use of the land, building or structure, and are considered to maintain the general intent and purpose of the By-law and the Official Plan, pursuant to Subsection 45(1) of the *Planning Act*.

11. PREVIOUS REPORTS

- **CDS-23-151** – 14695 Niagara River Parkway – Minor Variance Application A-21/23

12. APPENDICES

- Appendix I – Application Drawings
- Appendix II – Location Map

Respectfully submitted:

Prepared by:



Victoria Nikoltcheva
Planner II

Reviewed by:



Aimee Alderman, MCIP, RPP
Manager of Planning

FORESTGREEN

FORESTGREEN CREATIONS INC.
DESIGN + BUILD
1423 Pelham Street
Fonthill, Ontario
L5S 1E3
T: 905.892.9737
F: 905.892.4940
E: todd@forestgreencreations.com

PROJECT

Wakil

14495 Niagara River Parkway, NOTL

GENERAL NOTES

Contractor is to check and verify all dimensions and conditions on the project and report any discrepancies to the designer before proceeding with the work. Drawings are not to be scaled.

Contract documents are the copyright of the consultants and shall not be used or reproduced without authorization. Documents are to be returned upon completion of the project.

REVISIONS

#	Revision Description	Date
1	Issued For Communication	01.28.2021
2	Issued For Approval	04.14.2021
3	Issued For Permit Application	04.28.2021

DATE

5/2/2024 10:54:21 AM

SCALE

As indicated

PROJECT NO.

19-003

The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a Designer.

QUALIFICATION INFORMATION

Required unless design is exempt under 2.17.5.1 of the building code

Todd Barber

22666

SIGNATURE

REGISTRATION INFORMATION

Required unless design is exempt under 2.17.5.1 of the building code

Forestgreen Creations Inc.

30817

SIGNATURE

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DRAWING NO.

Site/Grading Plan

A1.0

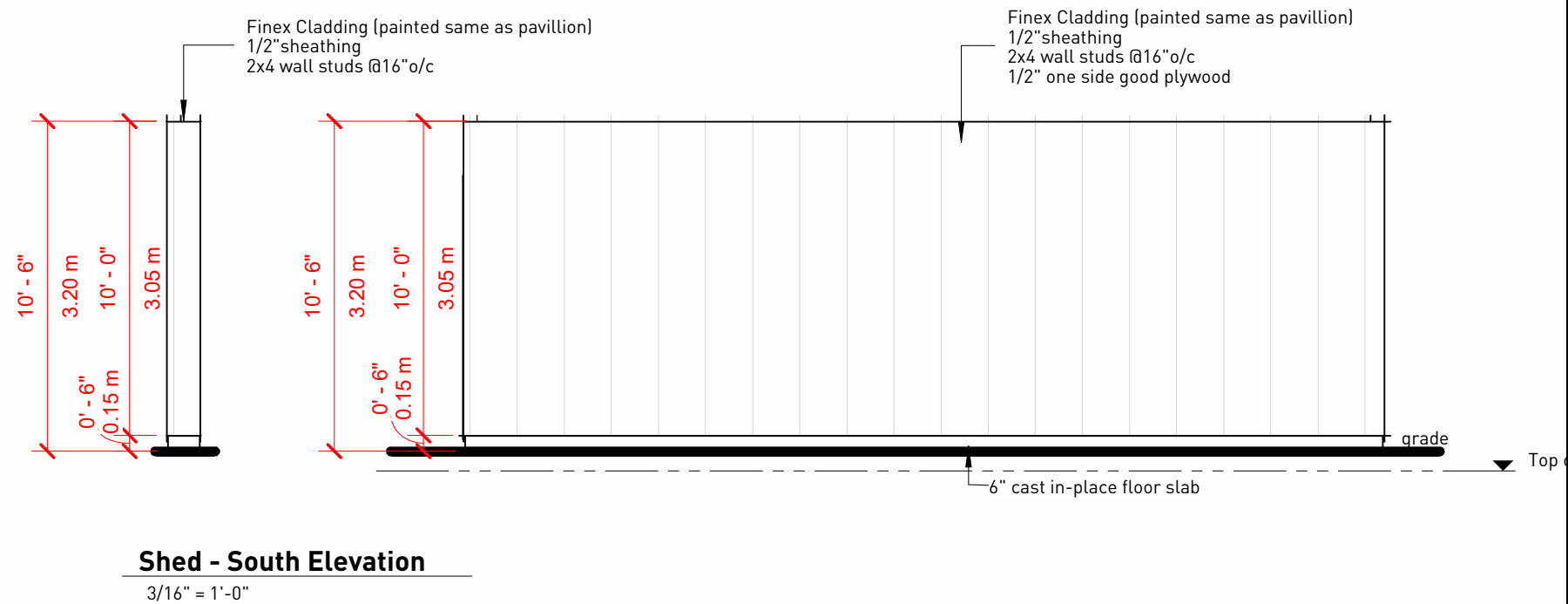
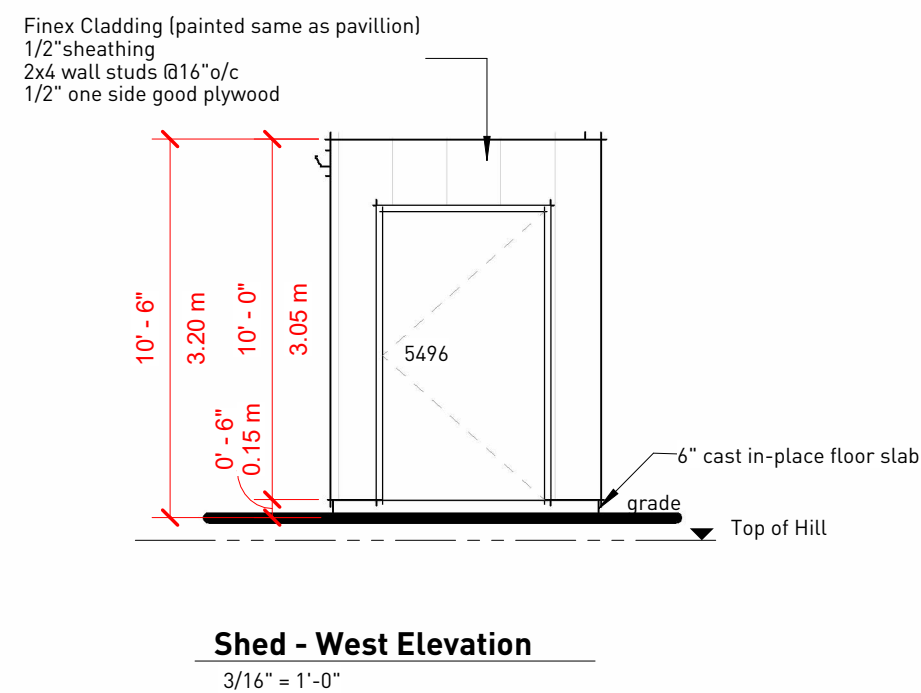
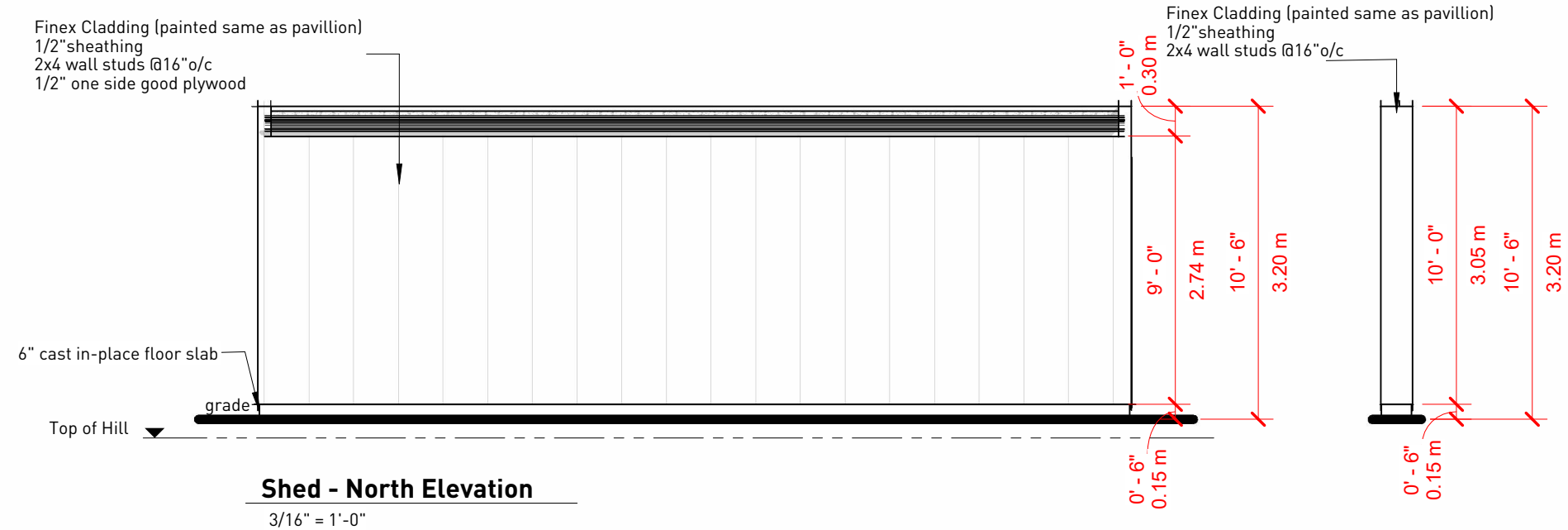
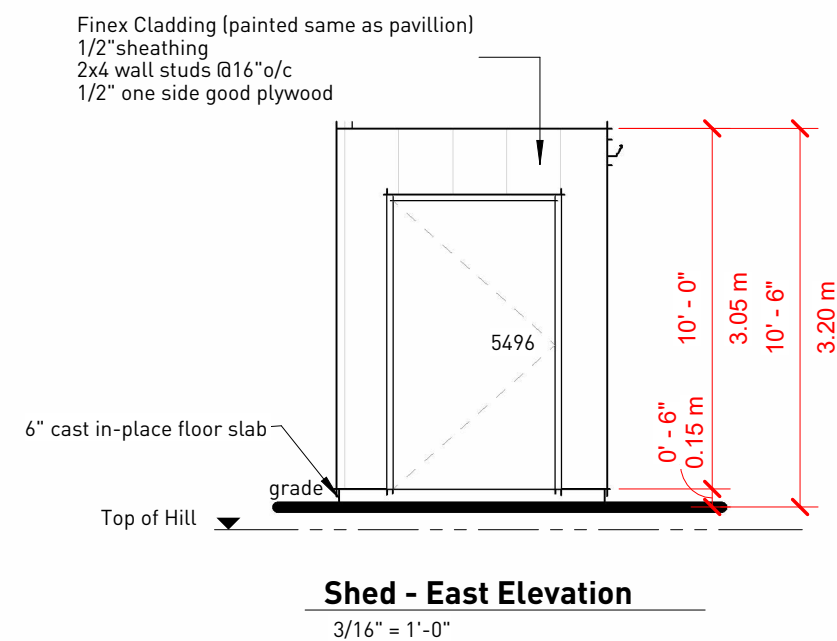
SITE STATISTICS		
ITEM	AREA	%
LOT AREA	4842.00 m ²	100%
AREA COVERED BY BUILDING AND CANOPY ROOF	700.00 m ²	14.46%
AREA COVERED BY PROPOSED SHED	20 m ²	0.41%

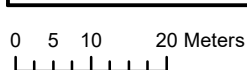
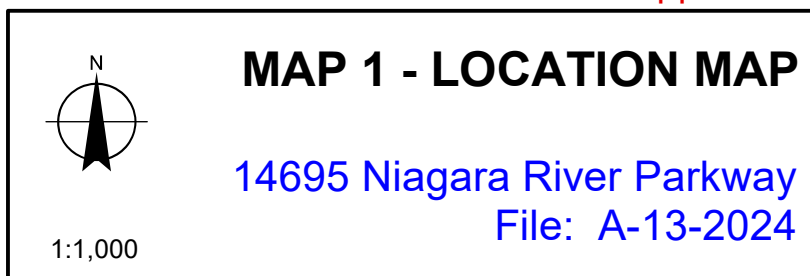
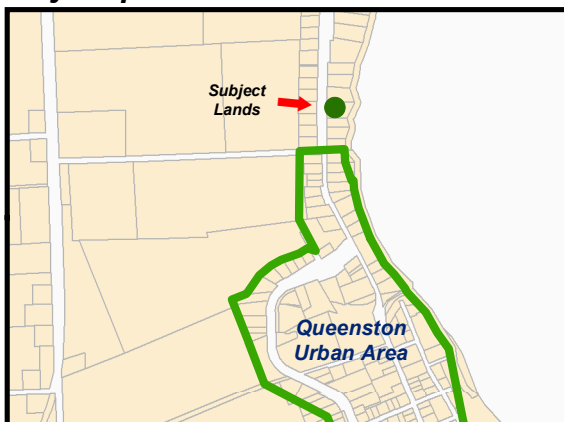
LEGEND FOR GRADES

106.21	PROPOSED
106.21	EXISTING

Site Plan.
1" = 10'-0"

Page 17 of 116







Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-121 **COMMITTEE DATE:** 2024-07-18
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Minor Variance Application A-14/24 – 50 Henry Street

1. RECOMMENDATION

It is respectfully recommended that:

1.1 Minor Variance Application A-14/24 for 50 Henry Street be approved.

2. PURPOSE

The applicant is proposing the re-construction of an existing attached garage. To accommodate the proposal, the following variance has been requested:

1. Minimum interior side yard setback from 1.5 metres, as required in the Zoning By-law, to 1.0 metres for the proposed garage.

The application drawing is attached as **Appendix I** to this report.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands, known municipally as 50 Henry Street, are located on the east side of Henry Street and south of Pine Street, within the urban area of Virgil. The location of the subject lands is shown on **Appendix II** to this report.

The subject lands have an approximate area of 1,440 square metres, with 21.3 metres of frontage on Henry Street. The lands contain a one-storey single-detached dwelling and an attached garage. The reconstruction of the attached garage is proposed to be located 1.0 metres from the interior side lot line. The existing attached garage, constructed approximately 50 years ago, is located 0.9 metres from the interior side lot line, as shown in **Appendix I**. The dwelling is serviced by municipal water and sanitary connections. The surrounding lands are characterized by residential uses.

4. DISCUSSION / ANALYSIS

4.1 Minor Variance Tests – Subsection 45(1), *Planning Act*, R.S.O. 1990, c. P.13

Subsection 45(1) of the *Planning Act* establishes four tests for considering minor variances:

1. Is the requested variance minor in nature?

The proposed garage would increase the interior side yard setback to 1.0 metres, from the 0.9-meter setback established for the existing garage. While the proposed setback of 1.0 metres is

lesser than the minimum requirement of 1.5 metres of the Zoning By-law, no known nuisances or adverse impacts have resulted from the established lesser setback of the existing garage. Staff are of the opinion that the newly proposed garage maintains sufficient distance to the neighbouring property for drainage and for maintenance of the structure.

Staff consider the requested variance to be minor in nature.

2. Is the requested variance desirable for the appropriate development or use of the land, building or structure?

A reduced side yard setback is being requested to accommodate the proposed garage which is to be located largely within the same footprint as the existing garage. The new garage would extend further into the rear yard in comparison with the existing garage, but would increase the setback to the southerly interior lot line from 0.9 metres to 1.0 metres.

Staff do not anticipate adverse impacts to the adjacent properties and consider the requested variance to be appropriate for the development and use of the land.

3. Does the requested variance maintain the general intent and purpose of the By-law?

The subject lands are zoned “Virgil Community Zoning District - Residential (R1) Zone” in Zoning By-law 4316-09, as amended. The rear of the subject lands contain Niagara Peninsula Conservation Authority (“NPCA”) regulated lands, associated with the Four Mile Creek and its floodplain. A single-detached dwelling and associated accessory buildings and structures are permitted uses within the R1 Zone.

The intent of the minimum interior side yard setback is to ensure adequate spatial separation between dwellings and structures for drainage and for maintenance. The existing garage pre-dates the By-law and has a side yard setback of 0.9 metres to the adjacent interior lot line. While the Zoning By-law requires a minimum interior side yard setback of 1.5 metres, staff are of the opinion that the requested setback is sufficient for ongoing maintenance and separation from the side yard of the neighbouring lot. Adverse impacts to the adjacent properties are not anticipated and the character of the R1 Zone would be maintained.

No site alteration is proposed within the NPCA regulated lands.

Staff are of the opinion that the requested variance maintains the general intent and purpose of the By-law.

4. Does the requested variance maintain the general intent and purpose of the Official Plan?

The subject lands are designated “Low Density Residential” in the Town Official Plan (2017 Consolidation, as amended). A single-detached dwelling and associated accessory buildings and structures are permitted uses within this designation.

The goals and objectives of the Residential designation as set out in the Official Plan outline that new development or redevelopment must be appropriately located and compatible with surrounding land uses in order to minimize the potential for land use compatibility impacts, as well as promote the maintenance and rehabilitation of the existing housing stock.

The reconstruction of the garage facilitates greater functionality of the subject lands, and would function as a parking space and storage area. The requested variance does not conflict with the goals and objectives of the Residential designation, and is proposed to facilitate a permitted use.

Staff consider the requested variance to maintain the general intent and purpose of the Official Plan.

5. TOWN, AGENCY AND PUBLIC COMMENTS

The application was circulated to all appropriate Town Departments and external agencies, and public notice of the application was provided as required by the *Planning Act*. The following responses were received:

Town Departments

Building – No objections. Building permit required for the proposed garage reconstruction.

Finance – No objections.

Fire and Emergency – No objections.

Heritage – No objections.

Operations – No objections.

Urban Forestry – Private trees may be impacted by the construction works required for the proposed garage. The applicant has provided a signed Tree Declaration Form, confirming that any requirements of the Town's Private Tree Protection By-law will be adhered to.

Agencies

Niagara Peninsula Conservation Authority (NPCA) – No objections. The property contains regulated features including the Four Mile Creek watercourse and associated valleyland and floodplain; however, the proposed works are located away from the regulated features. Erosion Sediment Control measures (such as silt fencing) are recommended for use during the construction phase.

Niagara Region – No objections. The property is impacted by the Region's Natural Environment System ("NES"), consisting of a of Significant Woodland and Other Wetlands (the Virgil Conservation Area Wetland Complex). The Region is satisfied that the proposal will not have a negative impact on the NES, provided best management practices are implemented during construction, including erosion and sediment control fencing.

Public

No public comments were received at the time this report was prepared.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

The Committee may approve, refuse or modify the requested application.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

Private trees may be impacted by the eventual proposed garage construction. Any tree removal and/or impacts will be addressed through the Town's Private Tree By-law. No impacts to the regulated features to the rear of the property associated with Four Mile Creek are anticipated, provided best management practices are implemented during construction, including erosion and sediment control fencing, per Region and NPCA comments.

10. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the application, notice of the decision will be given as set out in the *Planning Act*. The decision of the Committee of Adjustment is subject to a 20-day appeal period from the date of the decision. If no appeals are received during the appeal period, the decision is final.

Changes to provincial legislation have been made by way of Bill 23 and third-party appeals from private property owners are no longer permitted.

11. CONCLUSION

Planning Staff recommend approval of Minor Variance Application A-14/24 as the requested variance is considered to be minor in nature, appropriate for the development or use of the land, building or structure, and is considered to maintain the general intent and purpose of the By-law and the Official Plan, pursuant to Subsection 45(1) of the *Planning Act*.

12. PREVIOUS REPORTS

Not applicable.

13. APPENDICES

- Appendix I – Application Drawing and Elevations
- Appendix II – Location Map

Respectfully submitted:

Prepared by:

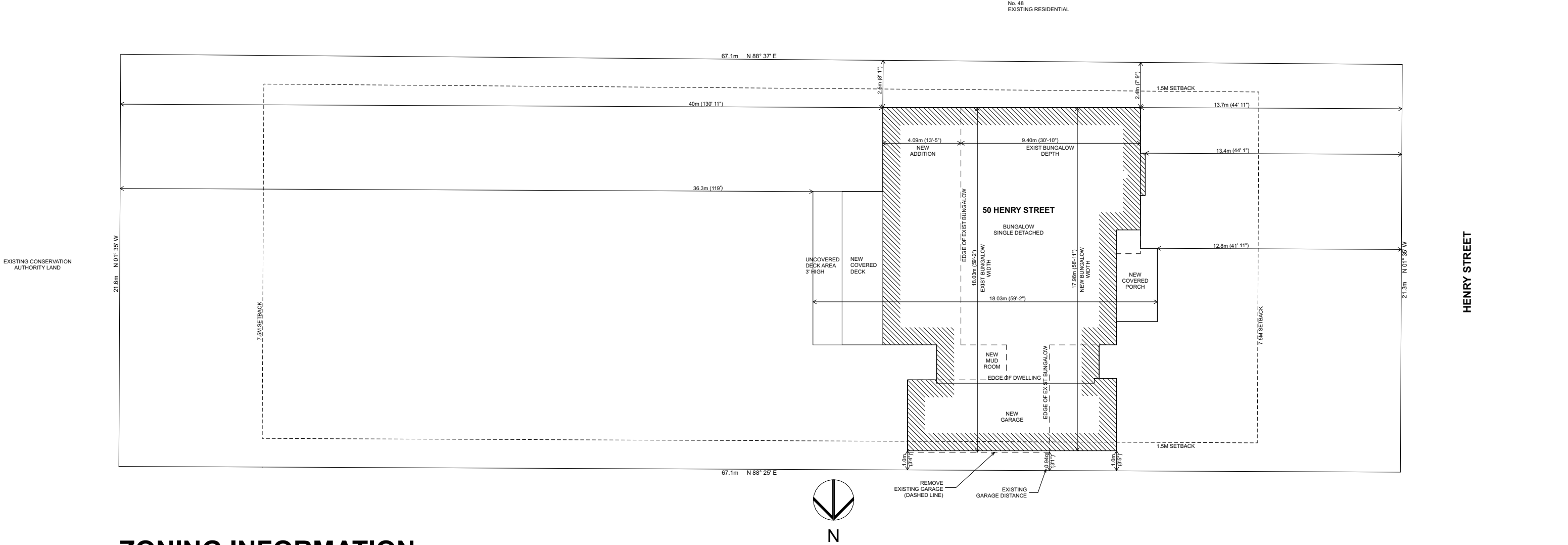


Connor MacIsaac
Planner II

Reviewed by:



Aimee Alderman, MCIP, RPP
Manager of Planning



ZONING INFORMATION

RESIDENTIAL ZONE - R1

MINIMUM AREA	: 668 m ²
MINIMUM LOT FRONTAGE	: 18 m
MINIMUM FRONT YARD	: 7.5 m
MINIMUM REAR YARD	: 7.5 m
MINIMUM SIDE YARD	: 1.5. m
MINIMUM EXTERIOR SIDE YARD	: 4.5 m
MAXIMUM COVERAGE	: 33%
MAXIMUM HEIGHT	: 10 m

LOT AREA	: 1439.5m ² (15,495.0 sqft)
BUILDING AREA	: 242.8 m ² (2613.1 sqft)
LOT COVERAGE	: 16.9%
HEIGHT	: 5.1 m (16' 9.5")

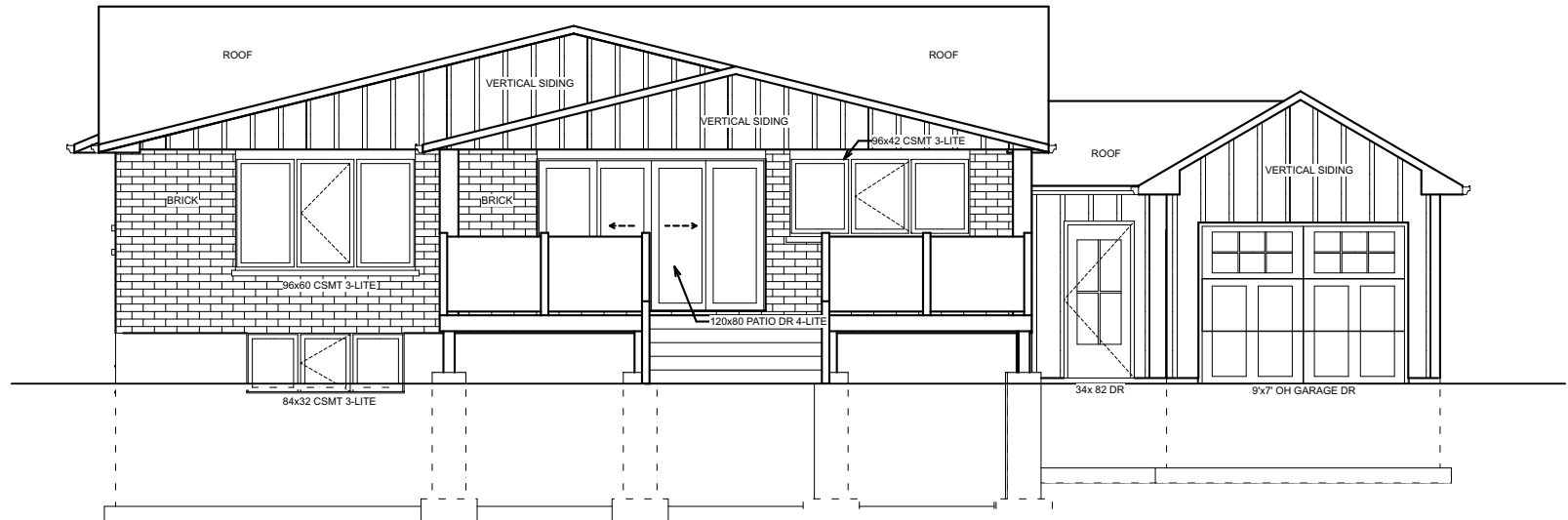
All contractors and/or trades shall verify all dimensions, notes, site and report any discrepancies prior to construction. This drawing not to be scaled, all drawings, prints and related documents are the property of the designer and must be returned upon request. Reproduction of drawings and related documents in part or in whole is strictly forbidden without written consent. Drawings to be for the purpose for which they are issued.

PROJECT NAME & ADDRESS: ADDITIONS 50 HENRY STREET NOTL, ONTARIO	DESIGNS BY SANTY	DRAWN BY: SY	SCALE:	DESIGNER BCIN No: 21034	PROJ: 23-08-30
	264 Welland Ave Unit 2D • St Catharines • L2R 2P8 • 905.680.6891 inspired@designsbysanty.com • www.designsbysanty.com	REV DATE: 2024-04-10	ISSUED FOR: VARIANCE	FIRM BCIN No: 42520	PG: 1 OF 3
PG TITLE: SITE PLAN	I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of the Building Code. I am qualified, and the firm is registered, in the appropriate classes/categories. DESIGNER NAME: SANTY YEH DESIGNER SIGNATURE: _____				



WEST (FRONT)

SCALE: 1:100

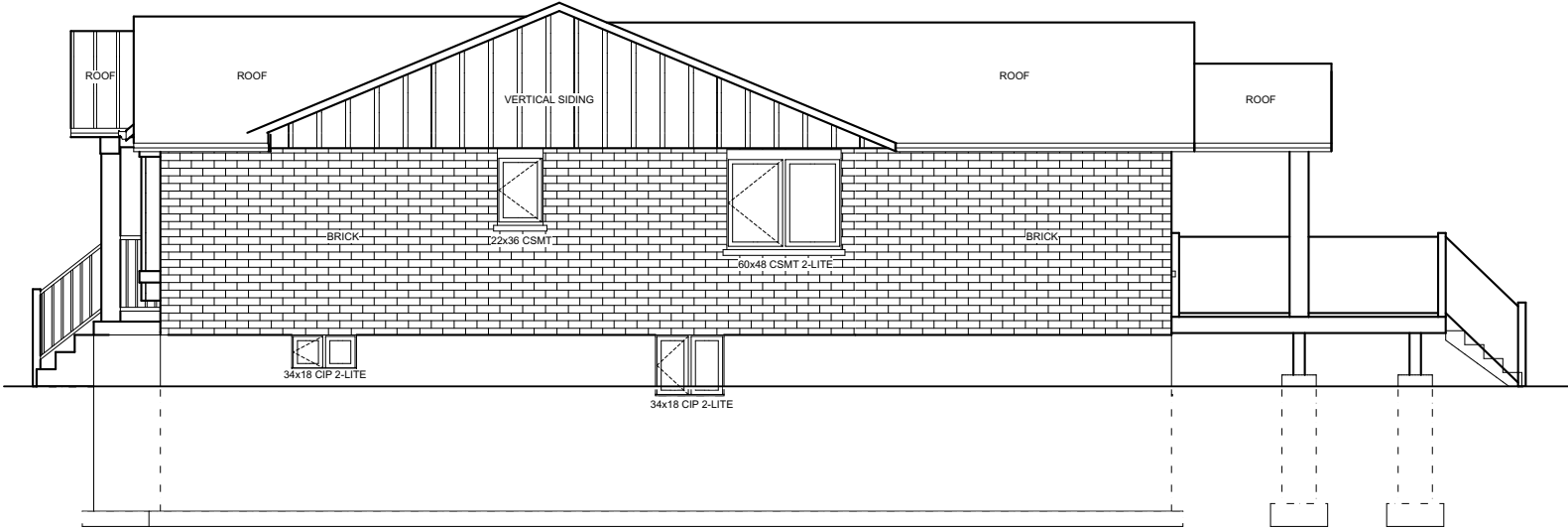


EAST (REAR)

SCALE: 1:100

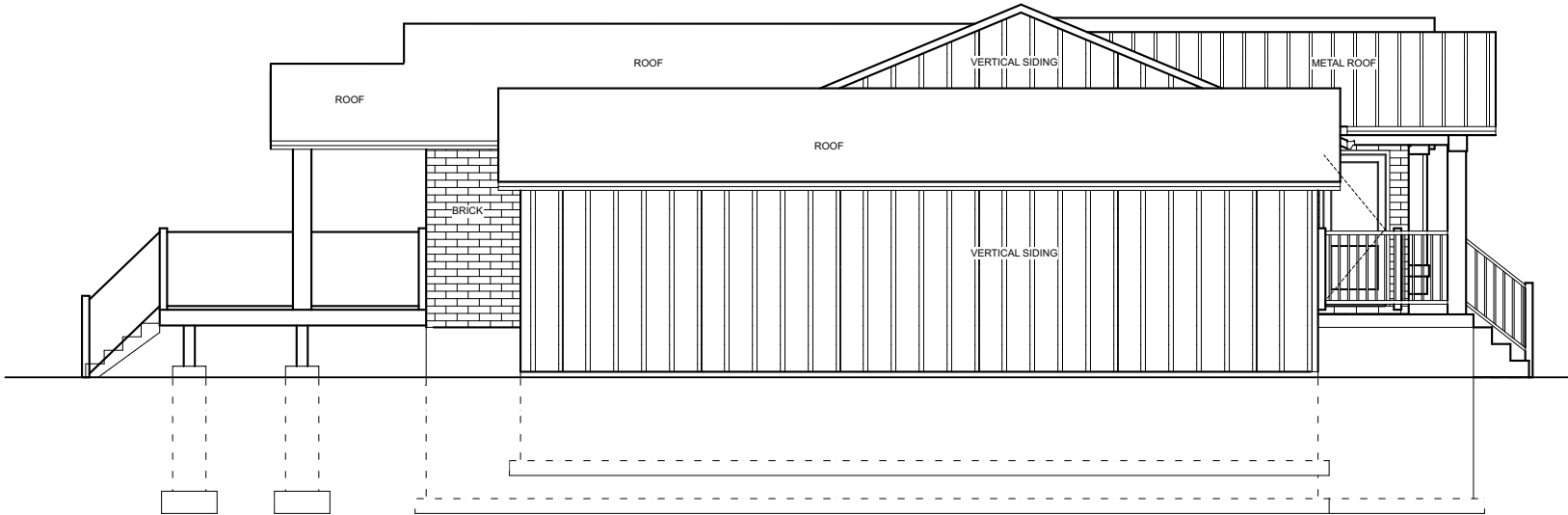
All contractors and/or trades shall verify all dimensions, notes, site and report any discrepancies prior to construction. This drawing not to be scaled, all drawings, prints and related documents are the property of the designer and must be returned upon request. Reproduction of drawings and related documents in part or in whole is strictly forbidden without written consent. Drawings to be for the purpose for which they are issued.

PROJECT NAME & ADDRESS: ADDITIONS 50 HENRY STREET NOTL, ONTARIO	<div>DESIGNS BY SANTY</div> <div>264 Welland Ave Unit 2D • St Catharines • L2R 2P8 • 905.680.6891 inspired@designsbysanty.com • www.designsbysanty.com</div>	DRAWN BY: SY	SCALE:	DESIGNER BCIN No: 21034	PROJ: 23-08-30
		REV DATE: 2024-04-10	ISSUED FOR: VARIANCE	FIRM BCIN No: 42520	PG:
		I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of the Building Code. I am qualified, and the firm is registered, in the appropriate classes/categories.			2 OF 3
PG TITLE: ELEVATIONS	DESIGNER NAME: SANTY YEH	DESIGNER SIGNATURE:			



SOUTH (RIGHT)

SCALE: 1:100

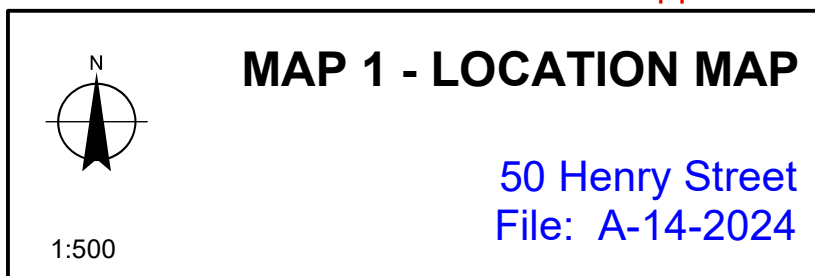
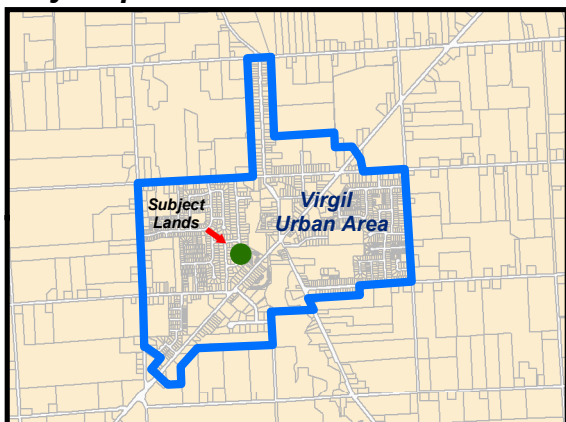


NORTH (LEFT)

SCALE: 1:100

All contractors and/or trades shall verify all dimensions, notes, site and report any discrepancies prior to construction. This drawing not to be scaled, all drawings, prints and related documents are the property of the designer and must be returned upon request. Reproduction of drawings and related documents in part or in whole is strictly forbidden without written consent. Drawings to be for the purpose for which they are issued.

PROJECT NAME & ADDRESS: ADDITIONS 50 HENRY STREET NOTL, ONTARIO	<div>DESIGNS BY</div> <div>SANTY</div> <div>264 Welland Ave Unit 2D • St Catharines • L2R 2P8 • 905.680.6891 inspired@designsbysanty.com • www.designsbysanty.com</div>	DRAWN BY: SY	SCALE:	DESIGNER BCIN No: 21034	PROJ: 23-08-30
		REV DATE: 2024-04-10	ISSUED FOR: VARIANCE	FIRM BCIN No: 42520	PG:
		I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of the Building Code. I am qualified, and the firm is registered, in the appropriate classes/categories.			3 OF 3
PG TITLE: ELEVATIONS		DESIGNER NAME: SANTY YEH		DESIGNER SIGNATURE: _____	





Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-120 **COMMITTEE DATE:** 2024-07-18
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Fence Variance Application FV-02/24 – 474 William Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Fence Variance Application FV-02-24 for 474 William Street be approved.

2. PURPOSE

The applicant is proposing to recognize the existing cedar tree hedge on the property, which is classified as a fence pursuant to Fence By-law No. 4778-14, and requests relief as follows:

1. Maximum height of a fence in a front yard from 1.0 metres, as required in the Fence By-law, to 3.5 metres for the existing cedar trees.

The application drawing is attached as **Appendix I**.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 474 William Street, located on the south side of William Street, east of Circle Street and west of Nassau Street. The lands are situated within the urban area of Old Town. The location of the subject lands is shown in **Appendix II**.

The subject lands have an area of approximately 1,195 square metres and a frontage of 21.1 metres along William Street. The lands currently contain an existing single-detached dwelling and an in-ground pool and are connected to municipal water and sanitary services. Surrounding land uses include residential uses.

3.2 Fence By-law

The Town's Fence By-law defines the "front yard" as the yard extending across the full width of a lot between the front lot line of such lot and the nearest part of any building or structure on such lot. Accordingly, the existing cedar tree hedge is located within the front yard of the subject lands, approximately 7.0 metres from William Street.

The Fence By-law states that a fence may be a maximum of 1.0 metres above ground level within a front yard. The applicant is seeking permission for a cedar tree hedge of 3.5 metres above ground level within a front yard.

3.3 Existing Cedar Hedge Photographs

The following are photographs of cedar hedge on the subject lands, in addition to cedar hedges in proximity to the subject lands along William Street.



Figure 1: View of Hedge on Subject Lands



Figure 2: View of Hedge at 446 William Street



Figure 3: View of Hedge at 367 William Street

4. DISCUSSION / ANALYSIS

4.1 Fence Variance Tests – Section 45 of the *Planning Act*, R.S.O. 1990, c. P.13

Subsection 45(3) of the *Planning Act* provides the Committee of Adjustment power to grant minor variances from the provisions of any by-law that implements an Official Plan using the four tests of a minor variance provided in Subsection 45(1):

1. Is the requested variance minor in nature?

The fence (cedar hedge) is existing on the subject lands and allowing it to grow to a height of 3.5 metres is not anticipated to pose impacts to the streetscape of William Street. There are other, mature, cedar hedges in the area which provide visual screening from the adjacent property and additional privacy for the homeowner.

The requested variance is considered minor in nature.

2. Is the requested variance desirable for the appropriate development or use of the land, building or structure?

The proposal facilitates additional privacy for the homeowner as the fence runs along the interior property line within the front yard. There are other cedar hedges in the area that exceed the maximum height of the Fence By-law with no known issues. The cedar hedge positively contributes to the overall streetscape. The Town's Operations Department has confirmed that there are no anticipated sight line or access issues as result of the requested increased height, as the hedge is located approximately 7.0 metres from the public road. There is sufficient, safe visibility for drivers entering or exiting the driveway or passing by on William Street.

Staff are of the opinion that the proposal is appropriate for the development of the lands.

3. Does the requested variance maintain the general intent and purpose of the By-law?

The design of the proposal is in alignment with the context of the neighbourhood and the increase in height is not anticipated to pose adverse impacts to surrounding lands or the public realm. The fence will remain under the roofline of the dwelling and is not anticipated to result in any incompatibility issues.

The requested variance maintains the general intent and purpose of the Fence By-law.

4. Does the requested variance maintain the general intent and purpose of the Official Plan?

The subject lands are designated “Established Residential” in the Town of Niagara-on-the-Lake Official Plan (2017 Consolidation, as amended).

The requested variance does not conflict with the Residential designation. The proposal supports the objectives of this designation given that the proposal provides additional privacy for the landowner. The proposal is not anticipated to pose adverse impacts to the Residential use of the lands or the surrounding area.

Staff consider the requested variances to maintain the general intent and purpose of the Official Plan.

4.2 Town, Agency and Public Comments

The application was circulated to all appropriate Town departments and external agencies, and public notice was provided as required by the *Planning Act*. The following responses were received:

4.2.1 Town Departments

Building – No objection.

Fire and Emergency Services – No objection.

Operations – No objection. There is sufficient, safe visibility for drivers entering or exiting the driveway or passing by on William Street.

Finance – No objection.

Heritage – No objection.

4.2.2 Agencies

No comments were received from external agencies.

4.2.3 Public

As of the date of preparation of this report, five (5) public comments were received. Four (4) of these comments offer support for the proposal, citing that the cedar hedge provides privacy and noise reduction between properties and the street, the hedge adds beauty to the neighbourhood, and the hedge is in keeping with other hedges along William Street.

One (1) comment was received in opposition to the proposal, citing negative impacts associated with the hedge. Based on further correspondence, it is understood that there are concerns related to the width of the hedge and potential encroachment onto the abutting

property, ability for the abutting property to view the street, and ongoing maintenance of the hedge.

5. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

6. OPTIONS

The Committee may approve, refuse or modify the requested application.

7. FINANCIAL IMPLICATIONS

Not applicable.

8. ENVIRONMENTAL IMPLICATIONS

Not applicable. No tree removal is required to accommodate the proposed fence.

9. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the application, notice of the decision will be given as set out in the *Planning Act*. The decision of the Committee of Adjustment is subject to a 20-day appeal period from the date of the decision. If no appeals are received during the appeal period, the decision is final.

Changes to provincial legislation have been made by way of Bill 23 and third-party appeals from private property owners are no longer permitted.

10. CONCLUSION

Planning Staff recommend approval of Fence Variance FV-02/24 as the requested variance is minor in nature, appropriate for the development or use of the land, building or structure, and is considered to maintain the general intent and purpose of the By-law and Official Plan, pursuant to Subsection 45(1) of the *Planning Act*.

11. PREVIOUS REPORTS


Not applicable.

12. APPENDICES

- Appendix I – Application Drawings
- Appendix II – Location Map

Respectfully submitted:

Prepared by:

A handwritten signature in black ink that reads "John A. Federici". The signature is written in a cursive, slightly slanted style.

**John Federici, MCIP, RPP
Senior Planner**

Recommended by:

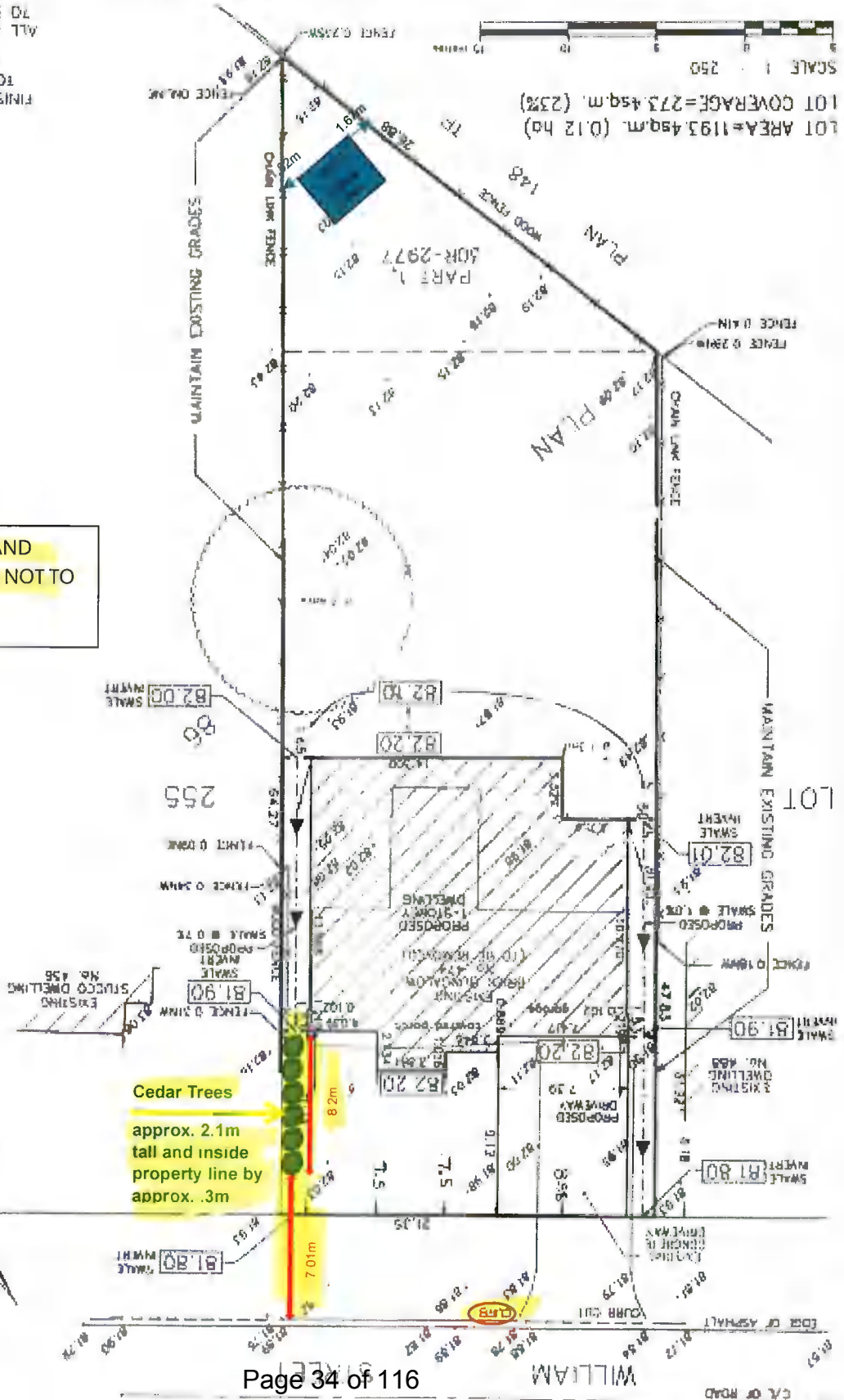
A handwritten signature in black ink that reads "Aimee Alderman". The signature is written in a cursive, slightly slanted style.

**Aimee Alderman, MCIP, RPP
Manager of Planning**

Proposed Grading Certification I hereby certify that the proposed grading shown on this plan complies with the grading laws of the City of Los Angeles and that the proposed grading will not result in any adverse effects on the surrounding lands.		As Constructed Grading Certification I hereby certify that I have taken the highest grades shown, and that the grading of this lot does not impact adversely on adjoining lands.	
Drawn by City: _____ Date: _____ Andrew Cameron		Date: _____ Date: _____ Date: _____	
Proposed Grading Certification As Constructed Grading Certification	Checked by: _____ Date: _____	Zone: _____ Date: _____	Scale: 1" = 250' REF: 16-16-455-00

PROPOSED ELEVATIONS	
TOP OF FOUNDATION	89.70
FINISHED FLOOR	83.00
TOP OF FOOTING	80.16
GRADE (FRONT)	82.20
GRADE (REAR)	82.20

NOTE
 FINISHED GRADES ARE NOT TO ADVERSELY AFFECT ADJOINING LANDS.
 ALL DOWNSPOUTS AND SUMPS TO BE DIRECTED TO FRONT YARD.



TOWN OF NIAGARA-ON-THE-LAKE LOT GRADING PLAN

Lot No. PART LOT 255, PLAN 86 FORMERLY TOWN OF NIAGARA NOW TOWN OF

NIAGARA-ON-THE-LAKE

Street No. 474 WILLIAM STREET

Builder or Owner GATTA HOMES (905-468-8867)

Subd'n Grade Control Plan No. _____

LEGEND

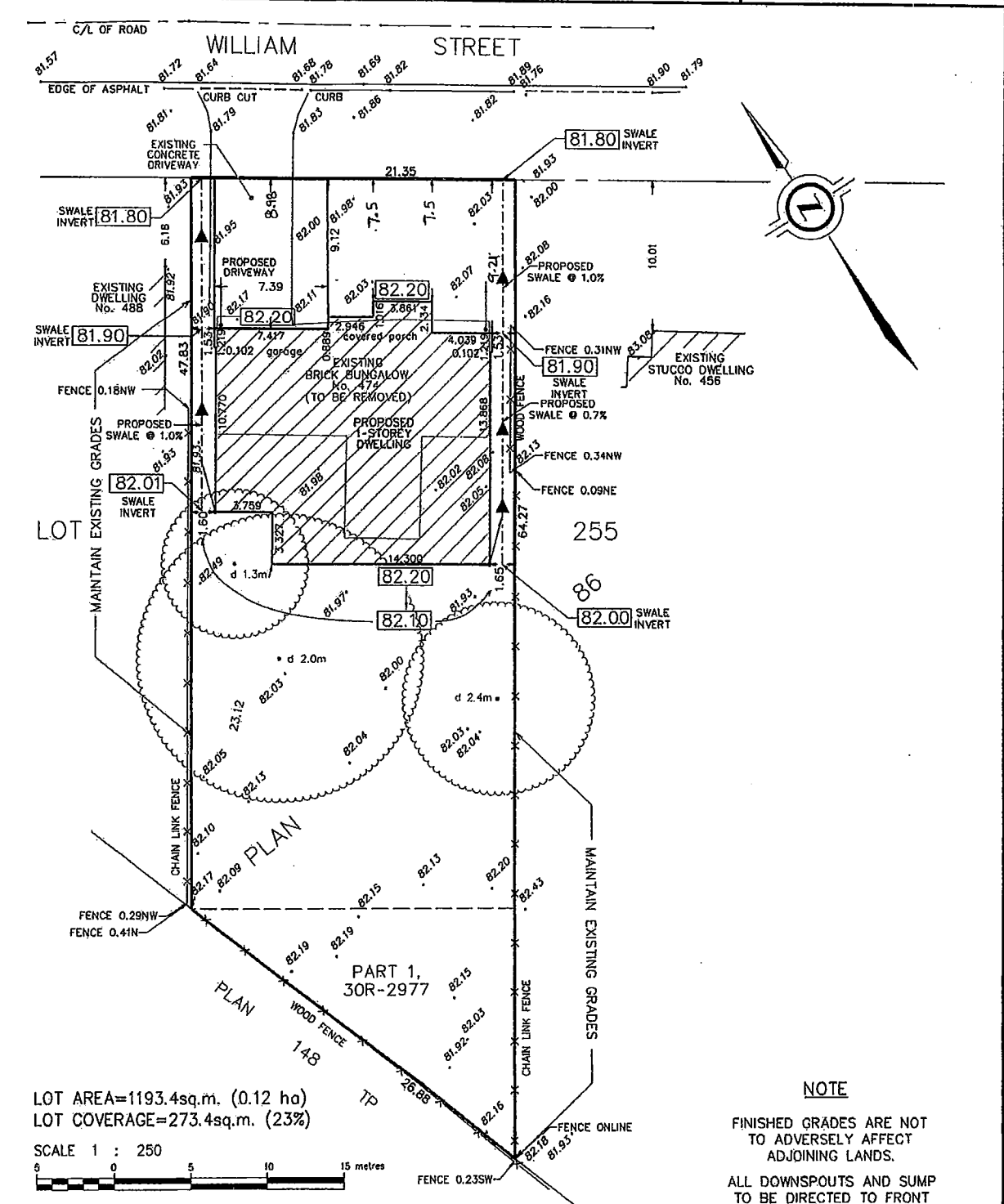
- Drainage Direction
- Setback Measurement
- Downspout & Direction of Discharge
- 150.0 Existing Ground Elevation
- 150.0 Proposed Ground Elevation
- 150.0 Finished Ground Elevation

METRIC NOTE

DISTANCES AND ELEVATIONS SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

ELEVATION NOTE

ELEVATIONS ARE OF GEODETIC ORIGIN (CGVD-1928:78), DERIVED FROM GNSS OBSERVATIONS AND NRCAN'S GEOD MODEL HT2.0.



LOT AREA=1193.4sq.m. (0.12 ha)
LOT COVERAGE=273.4sq.m. (23%)

SCALE 1 : 250



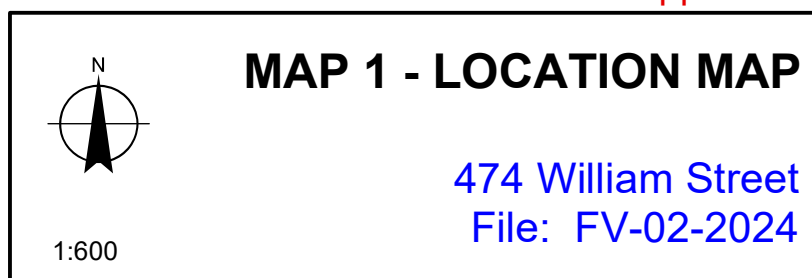
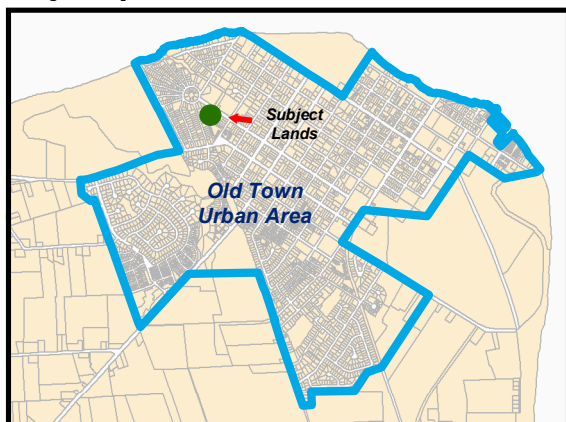
NOTE

FINISHED GRADES ARE NOT TO ADVERSELY AFFECT ADJOINING LANDS.
ALL DOWNSPOUTS AND SUMP TO BE DIRECTED TO FRONT

Dwg attached	DRAWN JH	CHECKED AC	ZONE ER	REF.16-16-455-00	SCALE 1:250
Proposed Grading Certification I hereby certify that the proposed grading shown is compatible with the adjoining lands. Andrew Cameron O.L.S. Date <u>July 25, 2016</u>			As Constructed Grading Certification I hereby certify that I have taken the finished grades shown, and that the grading of this lot does not impact adversely on adjoining lands. Date _____ O.L.S. _____		
Accept by City _____ Date _____			O.L.S. _____		
MATTHEWS, CAMERON, HEYWOOD - KERRY T. HOWE SURVEYING LIMITED A wholly owned subsidiary of J.D. Barnes Limited 3233 STANLEY AVENUE, UNIT 1, NIAGARA FALLS, ON L2E 7C2 T: (905) 358-3693 F: (905) 358-6324 www.jdhomes.com					

PROPOSED ELEVATIONS

- 89.70 - TOP OF FOUNDATION
- 83.00 - FINISHED FLOOR
- 80.16 - TOP OF FOOTING
- 82.20 - GRADE (FRONT)
- 82.20 - GRADE (REAR)



0 4.25 8.5 17 Meters



From: [Weston Miller](#)
To: [Natalie Thomson](#)
Subject: In Support of Minor Variance on 474 William Street
Date: July 8, 2024 3:00:15 PM

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Good afternoon,

I am writing to support the minor variance application for 474 William Street. Having lived in the neighbourhood my entire life, I can wholeheartedly say that large cedar-like hedges are a common and defining characteristic of our area. They provide privacy for homeowners and contribute to the natural beauty of the neighbourhood. As an owner of multiple properties in the area and the President of the nearby Chautauqua Residents Association, I fully support this minor variance application. I believe that any changes to these beautiful existing or any new cedar hedges would be detrimental to the neighbourhood.

Thank you,
Weston Miller

Weston Miller

Sales Representative
Niagara on the Lake Realty
Direct: +1 (289) 213-8681
Office: +1 (905) 468-3205
Fax: +1 (905) 468-3359

www.notlrealty.com



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From: [Brigitte Sarich](#)
To: [Natalie Thomson](#)
Cc: [REDACTED]
Subject: Support for Minor Variance for 474 William St Application
Date: July 7, 2024 11:07:34 PM

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Natalie Thomson Secretary/Treasurer Committee of Adjustment

Ms Thomson; we are neighbour to Mr and Mrs Cox and reside at 488 William Street and fully support their request to maintain their cedar tree lined border to the east of their property.

Their healthy cedar hedge enhances the beauty of our community and adds to our neighbourhoods' character. To criticize the height is irrational and completely without any basis. We have been delighted with the warmth and generosity of our neighbours and completely support them.

Having such community minded neighbours is a treasure in these daunting times.

We can be contacted by phone [REDACTED] for further information.

Sincerely,
Brigitte and Kenneth Sarich
488 William St P O Box 1864
NOTL On LOL 1J0

Sent from my iPad

From: [Gordon and Janis](#)
To: [Natalie Thomson](#)
Subject: application for variance at 474 William St.
Date: June 3, 2024 12:14:38 PM

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Dear Natalie,

We live at 424 William Street and have heard about the application made by Julia Buxton and Dave Cox at 474 William Street.

They wish to have their natural fence - a cedar hedge - grow to a height of 3.5 metres. This is in keeping with others' hedges along William Street.

The greenery is a welcome sight in the neighbourhood and is healthy and well-maintained as is everything else on their property. (It is even more important that it be let to grow as there is a proposed subdivision going in across the street from their residence with small lots and the destruction of the trees there.)

[REDACTED]

I/we support the Buxton/Cox application for a minor variance.

[REDACTED] I would like to know the by-law that allows this behaviour.

We all enjoy our trees, greenery and privacy!

Thank you.

Janis and Gordon Pollock

From: [S Moor](#)
To: [Natalie Thomson](#)
Subject: Request for Minor Variance for 474 William St. Application
Date: June 2, 2024 9:48:27 AM

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Dear Natalie Thomson, Secretary/Treasurer Committee of Adjustment

We are writing **to give our support** for the above mentioned application for the minor variance. The Buxton-Cox family are good and pleasant neighbours and care about our local environment.

We live on William Street and feel that the cedar hedge in question would be in keeping with the whole street where there are many hedges, trees and bushes bordering the sides and frontages of properties all along the street. Many of them being of huge stature.

For Example: to name only a few (locations as per the grid system):

- Between 282 and 278 William
- Down one side of 284 William at Butler
- Hedge at 327 William
- Between 342 William and 334 William.
- Between 359 William and 353 William and on Dorchester St.
- Between the empty lot at the north east corner of Nassau & William and 377 William.
- Between 378 William St. and 376 William St.
- Between 382 William and 390 William
- Near 390 William (south side) along the curb.
- From the corner of Nassau (the park on the north side) to the Region's Pumping station along the curb.
- On the East side of 456 William (the property that borders 474 William on the West) there is an existing cedar hedge that is approximately 20 ft. high and 8 ft. wide starting from a fence on that property and running to the curb.

We love the beauty all of these trees and hedges provide to our neighbourhood, **but more importantly, how trees mitigate climate change by providing oxygen, shade, and help with storm water management:** *"Urban impervious surfaces convert precipitation to stormwater runoff, which causes water quality and quantity problems. While traditional stormwater management has relied on gray infrastructure such as piped conveyances to collect and convey stormwater to wastewater treatment facilities or into surface waters, cities are exploring green infrastructure to manage stormwater at its source.* Source: National Center for Information - [The role of trees in urban stormwater management - PMC \(nih.gov\)](#)

Last but not least, all of these hedges also provide privacy and noise reduction between properties and the street.

Thank you for your attention to our email and we would appreciate confirmation that you have received it.

Respectfully submitted by:

Sherron & Robert Moorhead,
446 William St.

From: [evi mitchinson](#)
To: [Natalie Thomson](#)
Subject: Assistance Requested Regarding Minor Variances
Date: July 4, 2024 11:36:34 AM

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Good Morning Ms. Thomson,

Could you please assist me? I am looking for the name of the member from the Town's planning department who was assigned to the Minor Variance Application for 474 William Street in the Old Town.

Devin Durocher, By-Law Enforcement Officer with the Town has informed us that he contacted the Treasurer of the Committee of Adjustment to verify the timeline of the status of the Minor Variance for 474 William Street and added once he receives information, he will let us know. We are still awaiting to receive official notification of the hearing date for this minor variance.

As I have never before participated in a minor variance process, I am unfamiliar with the entire process and understand you may be a good person to start with for information I am seeking.

I believe I am correct in stating that all minor variance applications are referred to the Town's planning department and that I may speak with the planning department member assigned to the application for 474 William Street to assess the application.

As we are negatively impacted by the subject hedge of this minor variance, I will be appearing at the hearing date once scheduled to object to this minor variance.

Can you therefore please:

1. Provide me with the name and contact information for the planning department member assigned to the minor variance application for 474 William Street;
2. If already scheduled, provide us with the hearing date this minor variance will be heard;
3. Outline the process to be followed for a minor variance and what I can expect when attending the hearing.
4. Protocol to be followed for an objecting party.
5. Any other information you feel would be helpful.

I look forward to hearing from you at your earliest opportunity.

Sincerely,
Evi Mitchinson
456 William Street
NOTL

From: [evi mitchinson](#)
To: [Natalie Thomson](#)
Subject: RE: Assistance Requested Regarding Minor Variances
Date: July 5, 2024 11:57:35 AM

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Good Morning Natalie,

RE: Fence Variance Application FV-02/24 – 474 William Street

Thank you for the information contained in your email this morning.

As outlined in the “Notice of Application and Notice of Electronic Public Hearing” form, please accept this email:

- (i) As my registration request to make an in-person presentation objecting to the requested minor variance in the above noted Application. The Hearing date for this Application is scheduled for July 18, 2024.
- (ii) As my written request to be notified of the decision of the Committee of Adjustment in respect of the above noted Application.

If you don't mind, I have additional questions I would appreciate guidance with.

- 1) Can I mail you photos I wish included and shown during my presentation on July 18th, AND are you able to show these photos on an overhead projector for me during my presentation so I can focus on giving my presentation?
- 2) Is there a time limit I am under to make my presentation?
- 3) Fence By-law 4778-14 states: “Appeals shall be to Council”. Noting that there are changes in the *Planning Act*, should the need arise for me to appeal, would the appeal be to Council pursuant to Fence By-law 4778-14?

I will email Mr. Federici to make arrangements to speak with him prior to the July 18th Hearing date with the understanding he is out of the office until July 10th.

Thank you Natalie for your assistance in facilitating the answers to my questions.

Regards,

From: [Mel Ashcroft](#)
To: [Natalie Thomson](#)
Subject: Supporting - Minor Variance for 474 William Street
Date: July 12, 2024 2:01:16 PM

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To Whom It May Concern:

I am writing today in support of the Minor Variance for 474 William Street. The natural cedar hedge is completely in keeping with the surrounding neighbourhood and should remain intact.

As a nearby neighbour, I take no offence to the hedge and believe that it is a positive contribution to the landscape of the neighbourhood.

Sincerely,
Mel Ashcroft
1 Circle Street

From: [Tim Mitchinson](#)
To: [Natalie Thomson](#)
Subject: Fence Variance Application FV-02/24 – 474 William Street, CDS-24-120
Date: July 14, 2024 7:26:09 PM

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PLEASE CONFIRM RECEIPT

Good day Ms. Thomson,

Re: Fence Variance Application FV-02/24 – 474 William Street, CDS-24-120

Thank you for publishing the Planning Department Report and the four (4) letters of correspondence, which all support the above noted variance application. Although my wife, Evi Mitchinson, will be speaking in person on this matter before the Committee of Adjustment on July 18, 2024, I respectfully request that this correspondence also be included in the record for the Committee's consideration.

First, I would like to give my opinion on the Planning Department's Report, wherein Planning Staff recommend approval of Fence Variance FV-02/04. I fail to understand how the author of the report, Mr. John Federici, could so blatantly overlook our expressed concern that the Cox's White Cedar hedge, which can grow 8 to 12 meters tall and 3 to 4 meters wide is planted too close to our driveway to be allowed to grow to the proposed 3.5 meters, which I suspect is why Mr. Federici did not include a picture in his report that illustrates how close the hedge currently is to our driveway. (In light of this error, please see attached **picture #1**).

Mr. Federici states in his report under section 4.1, subsection 3, *"the increase in height is not anticipated to pose adverse impacts to surrounding lands or the public realm" and, "The fence will remain under the roofline of the dwelling and is not anticipated to result in any incompatibility issues."* Question; if the Cox's do not trim and maintain the hedge, will it adversely impact my surrounding land? A reasonable person would answer yes. Question; is an adverse impact on surrounding lands also an incompatibility issue. A reasonable person would again answer yes. To be considered free from bias and favouritism, the report needs to acknowledge our concerns that the Cox's have to date refused to trim the top and the west side of their hedge; and also that it poses a substantial safety risk for me if I am ultimately left with the responsibility of ensuring the hedge does not adversely impact my land. Mr. Federici never took the time to speak with us directly before submitting his report. By the time we were able to contact Mr. Federici, he astonishingly stated there is no restriction in the current Fence By-Law that governs the width of a fast growing White Cedar hedge, only the height. So the width is not a factor he considered or even expressed any concern for. He agreed the reason under Fence By-Law No. 4778-14 for having a 1 meter maximum height for front yard fences is due to safety concerns, but refused to agree that my safety on a ten foot ladder is as qualified and bona-fide a safety concern as me being able to spot traffic speeding down William Street before I back out of my driveway. Nevertheless, I believe a 3.5 meter White Cedar hedge will *"pose an adverse impact to surrounding lands or the public realm."* It creates a personal safety risk for me when I have a sudden adverse impact on my driveway; and like it or not I'm still a member of the public realm. So anticipating a future where I am falling off the ladder, I'd

say there is indeed an incompatibility issue.

Moving on, I would like to share my opinion with the Committee in respect of the correspondences that have been submitted in support of the Cox's application:

In respect of correspondence 5.4.1 from Weston Miller: He states, *"I believe any changes to these beautiful existing or any new cedar hedges would be detrimental to the neighbourhood."* Obviously Mr. Miller does not see how a 3.5 meter White Cedar hedge could have an adverse impact on my land (driveway). Likely due to the fact I have been trimming this hedge for the last four (4) years. (please see attached **picture #2**)

In respect of correspondence 5.4.2 from Brigitte and Kenneth Sarich: They state, *"To criticize the height is irrational and completely without any basis."* It needs to be noted that the Sarich's also share a property line with the Cox's, but on the east side (please see attached **picture #3**). The Cox's are requesting a fence variance of 3.5 meters for privacy, but only on the west side (my side) of their property. Why? The Cox's pool is in their back yard. What is rational about a 3.5 meter privacy hedge in the front yard when the east side and street view are open? What the Cox's are attempting to do is block the view of our old stucco home because it is not up to their standards. It has nothing to do with privacy. The Cox's chose to buy their property in 2015, knowing it was next door to our old stucco dwelling that we have lived in for the last 44 years. In 2017 the Cox's informed us they were planting white cedars to replace the sparse five (5) foot high privet hedge. We suggested they plant emerald cedars because it was so close to our driveway and offered to pay half the cost. The Cox's insisted on planting white cedars and stated they will be responsible for keeping it trimmed on all sides. Granted, they did not say how high or how wide they wanted it to grow (this was a secret). We naturally assumed it would be to the dimensions of the privet hedge that was previously there for decades. On that basis, do we have a right to criticize the height?

In respect of correspondence 5.4.3 from Janis and Gordon Pollock: They state, *"They wish to have their natural fence – a cedar hedge – grow to a height of 3.5 meters. This is in keeping with other's hedges along William Street."* Obviously Mr. and Mrs. Pollock also do not see how a 3.5 meter White Cedar hedge could have an adverse impact on my driveway, or they just don't care. But I believe the Pollocks are well aware of how a 3.5 meter White Cedar hedge could have an adverse impact on my driveway; given the fact they replaced a portion of their own White Cedar hedge with a more practical and preferable emerald cedar hedge planted next to their neighbour's driveway (please see **picture #4**). If the Cox's variance is approved by the Committee, anyone who is in contravention of the current 1 meter max height by-law would benefit (please see attached **picture #5**) and the By-Law wouldn't be worth the paper it's printed on. They further state, *"The greenery is a welcome sight in the neighbourhood and is healthy and well-maintained as is everything else on their property."* As I stated previously, the reason the hedge has appeared well trimmed is because I have been trimming it. To anyone stating they appreciate the looks of this hedge as viewed from the west (our side of this great divide), you're welcome! But trimming a hedge that is over six (6) feet tall is a safety concern for me. I'm getting too old to safely work off a six (6) foot ladder; no way can I work off a ten (10) foot step ladder to reach the top of the proposed 3.5 meter hedge. As for their comment, *"...well maintained as is everything else on their property."* A large white cedar hedge prevents a clear view of what lies behind (please see attached **pictures #6, #7 and #8**).

In respect of correspondence 5.4.4 from Sharron and Robert Moorehead: *"...the cedar hedge in question would be in keeping with the whole street where there are many hedges, trees and bushes bordering the sides and frontages of properties along the street. Many of them being of huge stature."* They go on to list eleven (11) examples. The Mooreheads have not stated which of their eleven examples are legal non-conforming or illegal non-conforming. Both categories are over 1 meter in height. The difference is; legal non-conforming, such as the large cedar hedge on our shared property line with the Mooreheads, were planted long before Niagara-on-the-Lake had a fence by-law and is therefore not subject to the current 1 meter max Fence By-Law; and Illegal non-

conforming were planted after the current Fence By-Law came into effect and therefore must comply with the 1 meter maximum height restriction. The Cox's current and proposed hedge is illegal non-conforming because it was planted in 2017 and therefore restricted to 1 meter height under the current Fence By-Law. If the Cox's were to keep the hedge at 2 meters max, which is the max allowed for side and rear yards, I would not be opposed. But the Cox's insisted on not trimming their hedge, not allowing me to trim the height, and not moving forward with their variance application in a reasonable amount of time (the Town informed them they were in contravention of the Fence By-Law in April 2023). The Cox's unreasonable delay to file for a variance and refusal to trim their hedge are the reasons why I erected a six (6) foot privacy screen on the west side of their hedge. Only then did the Cox's file this application.

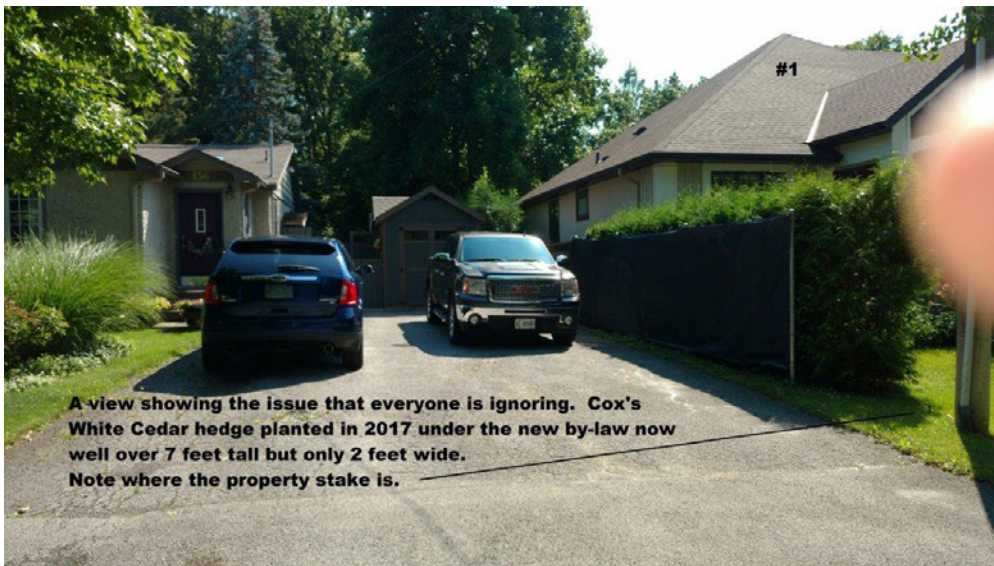
The Mooreheads further state, *"We love the beauty all of these trees and hedges provide to our neighbourhood, but more importantly, how trees mitigate climate change by providing oxygen, shade, and help with storm water management."* Well I have to agree with everything in this statement, but the Cox's ten (10) meter long hedge is not going to save the world. Emerald Cedars absorb just as much water and would not pose an adverse impact to my land. As for storm water management, according to the Cox's document entitled *"Notes and Background"*, attached to their application, the Cox's claim they *"are the only house to have a sump pump within the adjacent vicinity and therefore experience significant run off."* A cedar hedge does very little to mitigate the Cox's storm water issue (please see attached **picture #9**). As illustrated in the attached pictures #6, #7, and #8, the Cox's could make some easy fixes to mitigate their potential storm water concerns. But as shown in attached picture #9, the size of their roof in addition to their 9 foot deep basement does create a lot of storm water, which they direct by means of a swale across the foot of my driveway. Your welcome! But does anyone really believe increasing the white cedar hedge height to 3.5 meters is going to lessen the runoff into the street?

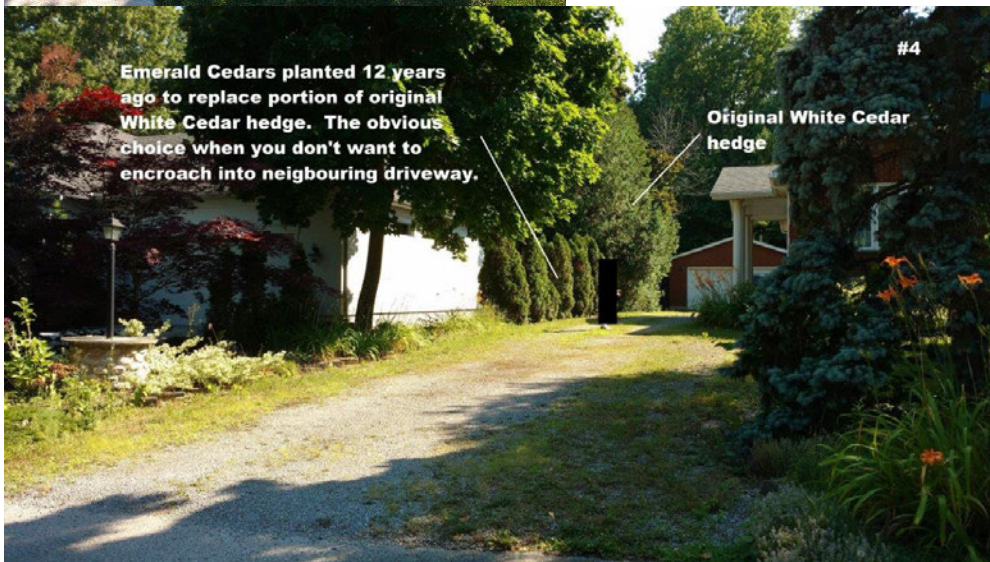
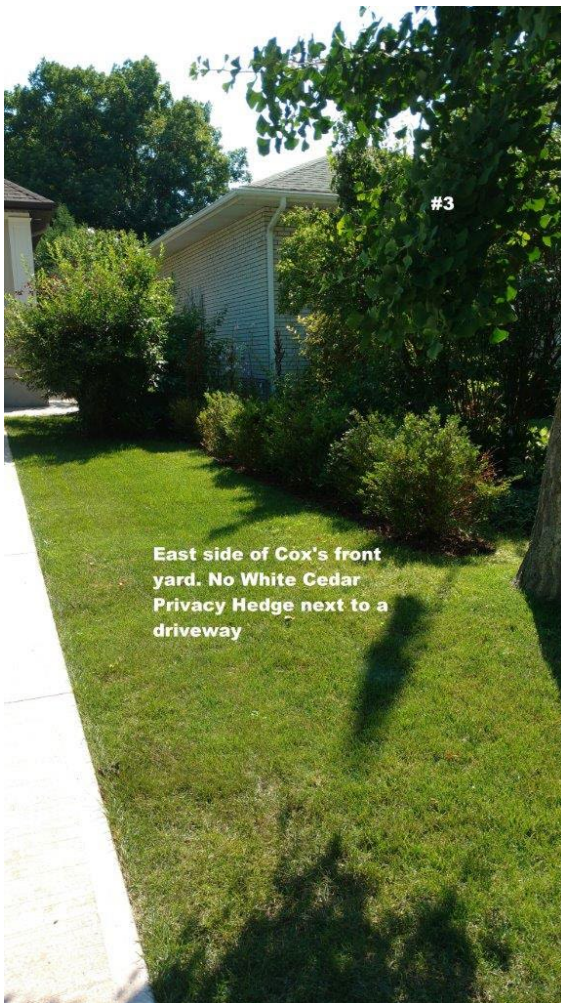
To close, nobody loves trees, bushes, flowers and nature more than my wife and I, our yard is proof of that, so please don't confuse our stand to protect our property and legitimate rights with an illegitimate and baseless assault on anyone else's legitimate rights. The facts are obvious. The real reason(s) underlying the Cox's application and its supporters is highly questionable and improper.

Best Regards,

Tim Mitchinson

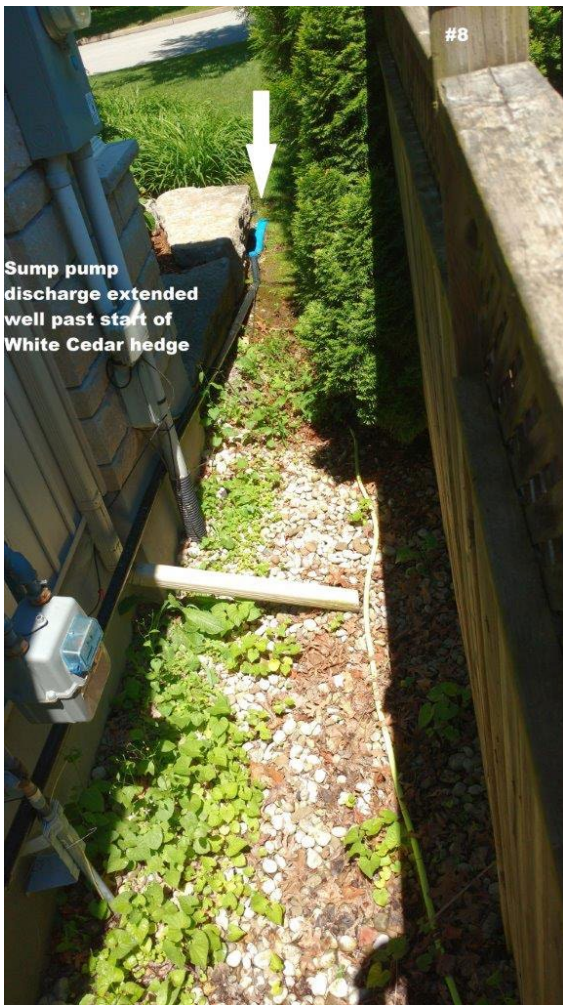
456 William Street, NOTL













Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-113 **COMMITTEE DATE:** 2024-07-18
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Fence Variance Application FV-03/24 – 59 Stoneridge Crescent

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Fence Variance Application FV-03/24 for 59 Stoneridge Crescent be approved.

2. PURPOSE

The applicant is proposing to recognize an existing fence within the interior side yard. To facilitate the application, the following variances have been requested:

1. Maximum height from 2.0 metres, as required in the Fence By-law, to 2.12 metres for the existing fence boards; and,
2. Maximum height from 2.0 metres, as required in the Fence By-law, to 2.19 metres for the existing fence posts.

The application drawing is attached as **Appendix I**.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 59 Stoneridge Crescent, lying on the west side of Stoneridge Crescent, east of Tanbark Road, in the urban area of St. Davids. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 547 square metres and a frontage of 15.4 metres along Stoneridge Crescent. The lands currently contain an existing single-detached dwelling that is serviced by municipal water and sanitary connections. Surrounding lands contain residential uses.

4. DISCUSSION / ANALYSIS

4.1 Fence Variance Tests – Section 45 of the *Planning Act*, R.S.O. 1990, c. P.13

Subsection 45(3) of the *Planning Act* provides the Committee of Adjustment power to grant minor variances from the provisions of any by-law that implements an Official Plan using the four tests of a minor variance provided in Subsection 45(1):

1. Is the requested variance minor in nature?

The existing fence is 8.2 metres in length and does not span along the entirety of the interior lot line. The slats of the fence are diagonally oriented which does not provide visual permeability; however, provides added design value and adequate screening from the neighbouring lot (refer to **Figure 1**).



Figure 1: Existing fence on the subject lands.

The requested variances are considered minor in nature.

2. Is the requested variance desirable for the appropriate development or use of the land, building or structure?

The fence provides appropriate screening of the rear yard of the subject lands and additional privacy to the homeowner. It is not visible from the street and would not result in impacts to the streetscape of Stoneridge Crescent.

Staff are of the opinion that the existing fence would not result in adverse impacts to the abutting lands, and that it is appropriate for the development and use of the subject lands.

3. Does the requested variance maintain the general intent and purpose of the By-law?

The requested variances recognize the height of the fence posts and boards, which have been deemed to not comply to the Fence By-law based on the existing average grade and slope of the property. The requested increase in height is not anticipated to pose impacts to neighbouring lands, nor result in any incompatibility concerns, as it is considered to be minor.

The requested variances maintain the general intent and purpose of the Fence By-law.

4. Does the requested variance maintain the general intent and purpose of the Official Plan?

The subject lands are designated in part as “Low Density Residential” in the Town Official Plan (2017 consolidation, as amended). Single-detached dwellings are permitted in the Low Density Residential designation.

The requested variances do not conflict with the objectives of the Residential designation. The existing fence and its configuration provide screening for the landowner from the abutting property, and are not anticipated to pose adverse impacts to the Residential use of the lands or the surrounding area.

Staff consider the requested variances to maintain the general intent and purpose of the Official Plan.

4.2 Town, Agency and Public Comments

The application was circulated to all appropriate Town departments and external agencies, and public notice was provided as required by the *Planning Act*. The following responses were received:

Town Departments

Building – No objection.

Finance – No objection.

Fire and Emergency Services – No objection.

Heritage – No objection.

Operations – No objection.

Agencies

No external agency comments were received at the time this report was prepared.

Public

No public comments were received at the time this report was prepared.

5. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

6. OPTIONS

The Committee may approve, refuse or modify the requested application.

7. FINANCIAL IMPLICATIONS

Not applicable.

8. ENVIRONMENTAL IMPLICATIONS

Not applicable.

9. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the application, notice of the decision will be given as set out in the *Planning Act*. The decision of the Committee of Adjustment is subject to a 20-day appeal period from the date of the decision. If no appeals are received during the appeal period, the decision is final.

Changes to provincial legislation have been made by way of Bill 23 and third-party appeals from private property owners are no longer permitted.

10. CONCLUSION

Planning Staff recommend approval of Fence Variance FV-03/24 as the requested variances are minor in nature, appropriate for the development or use of the land, building or structure, and are considered to maintain the general intent and purpose of the By-law and Official Plan, pursuant to Subsection 45(1) of the *Planning Act*.

11. PREVIOUS REPORTS

Not applicable.

12. APPENDICES

- Appendix I – Application Drawing
- Appendix II – Location Map

Respectfully submitted:

Prepared by:



**Victoria Nikoltcheva
Planner II**

Reviewed by:

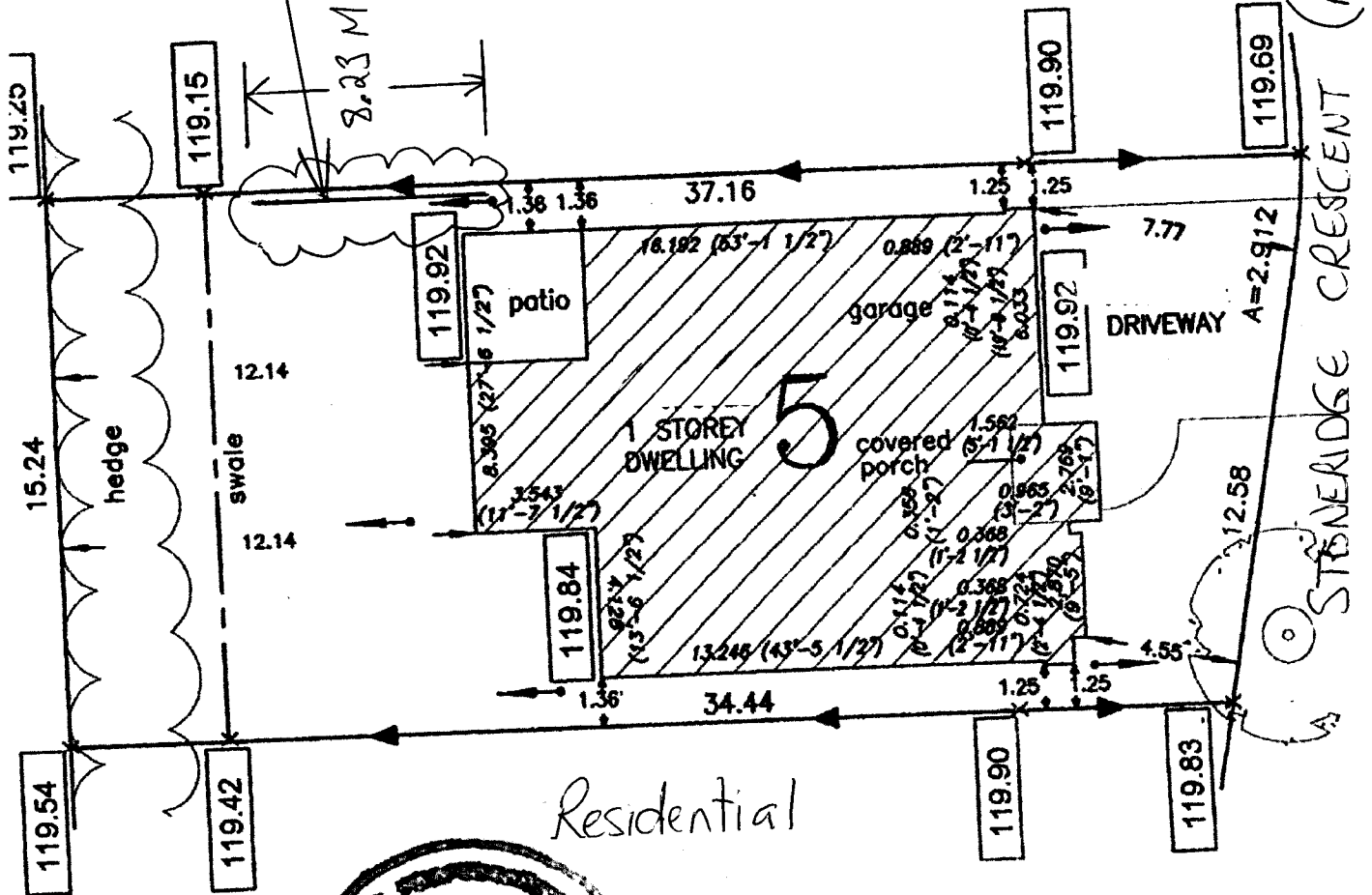


**Aimee Alderman, MCIP, RPP
Manager of Planning**

Fence at 2.119 metres
Posts at 2.186 metres

Residential.

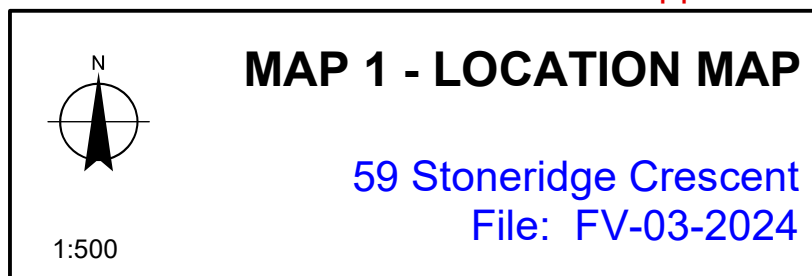
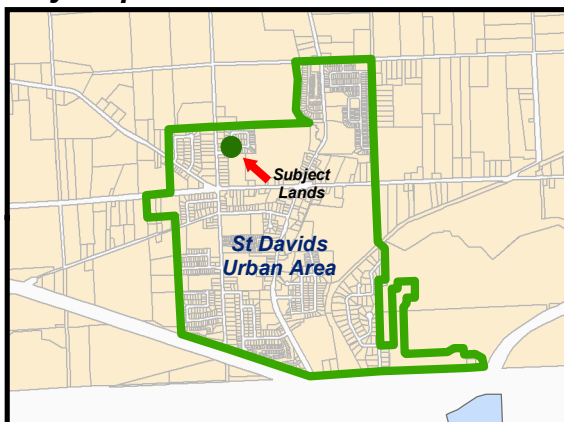
Residential



Residential

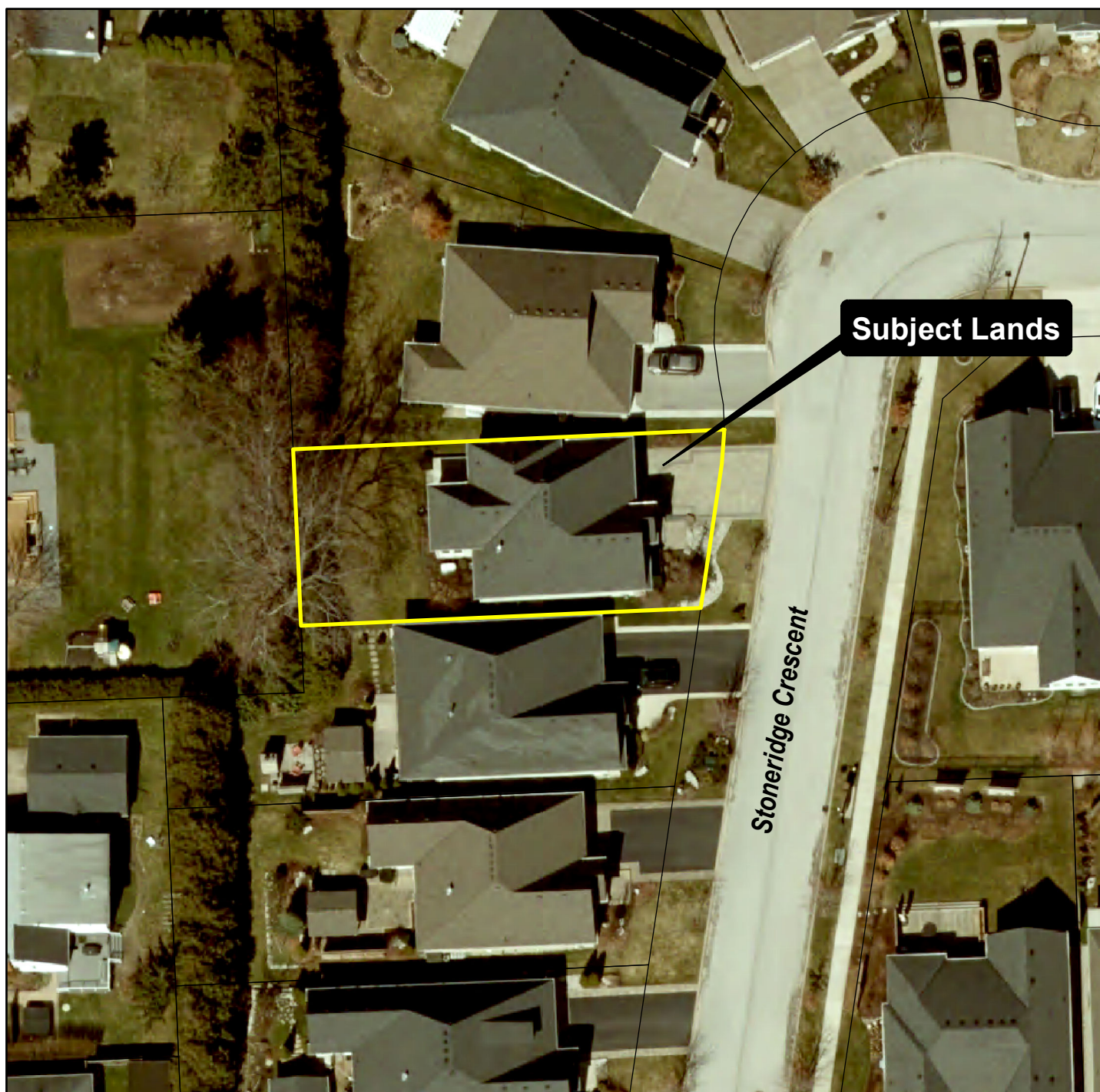


NORTH



59 Stoneridge Crescent
File: FV-03-2024

0 3.5 7 14 Meters





Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-122 **COMMITTEE DATE:** 2024-07-18
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Fence Variance Application FV-04/24 – 1551 Niagara Stone Road

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Fence Variance Application FV-04/24 for 1551 Niagara Stone Road be approved.

2. PURPOSE

The applicant is proposing to construct an acoustical fence to mitigate noise impacts along the east perimeter of the subject lands, and requests relief from Fence By-law 4778-14, as follows:

1. Maximum height of a fence on commercial lands from 3.0 metres, as required in the Fence By-law, to 3.5 metres for the proposed noise attenuation fence.

The application drawing and fence elevations are attached as **Appendix I**.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 1551 Niagara Stone Road, lying on the east side of Niagara Stone Road, south of Field Road within the urban area of Virgil. The location of the subject lands is shown in **Appendix II** to this report.

The subject lands have an approximate area of 1.46 hectares, with 69.7 metres of frontage on Niagara Stone Road. The subject lands are currently used for commercial purposes (Phil's Independent Grocer) with associated surface parking. The lands are serviced by municipal water and sanitary connections. The surrounding lands are characterized by commercial uses to the north and west, and residential uses to the south and east.

3.2 Noise Attenuation

In response to a noise complaint received by the Ministry of the Environment, Conservation, and Parks (the "MECP"), Aercoustics Engineering Limited was retained by the applicant to complete a Noise Impact Study (dated January 19, 2024). The Noise Impact Study evaluated the impact of the operational noise associated with Phil's Independent Grocer (i.e., HVAC equipment, delivery truck movements and idling) on the surrounding environment, in order to identify any required noise mitigation measures. The results of this study indicate that current facility operations exceed the applicable MECP sound level limits. As such, noise control measures are required, including the construction of a wooden noise attenuation fence along

the east lot line approximately 3.5 metres in height and approximately 50 metres in length as shown in **Appendix I**. Implementation of these noise controls is expected to reduce noise impacts to levels which comply with the MECP sound level limits. Compliance with MECP sound level limits will be confirmed through verification measurements following implementation of the prescribed noise control measures, including construction of the noise attenuation fence.

4. DISCUSSION / ANALYSIS

4.1 Fence Variance Tests – Section 45 of the *Planning Act*, R.S.O. 1990, c. P.13

Subsection 45(3) of the *Planning Act* provides the Committee of Adjustment power to grant minor variances from the provisions of any by-law that implements an Official Plan using the four tests of a minor variance provided in Subsection 45(1):

1. Is the requested variance minor in nature?

The wood noise attenuation fence is proposed to be located along the southeast perimeter of the lot, acting as an acoustical barrier to help reduce the noise impact of the existing commercial use on the surrounding sensitive land uses to MECP-acceptable levels.

The new fence is anticipated to reduce the impacts of the operational noise of the site on the adjacent sensitive receptors, most notably, the residential lots located immediately to the east. The increased height of the fence is also anticipated to provide additional privacy to adjacent residents. No impacts to the streetscape of Niagara Stone Road are anticipated based on the proposed location of the fence.

The requested variance is considered minor in nature.

2. Is the requested variance desirable for the appropriate development or use of the land, building or structure?

The proposal mitigates the ongoing operational noise impacts for the residents to the east of the site, enhancing the transition between the established commercial and residential uses. The construction of the fence does not result in the removal of any trees or landscaped areas.

Staff are of the opinion that the proposal is appropriate for the development of the lands.

3. Does the requested variance maintain the general intent and purpose of the By-law?

Staff are of the opinion that the design of the proposal is sympathetic to the mixed-use context of the neighbourhood, as the fence is anticipated to mitigate existing noise impacts on adjacent residents. The increase in height is not anticipated to pose adverse impacts to surrounding lands or the public realm.

The requested variance maintains the general intent and purpose of the Fence By-law.

4. Does the requested variance maintain the general intent and purpose of the Official Plan?

The subject lands are designated as “Service Commercial” in the Town Official Plan (2017 consolidation, as amended). The goals and objectives of the Service Commercial designation

as set out in the Official Plan outline that these areas are intended to provide goods and services to the residents of the municipality and the travelling public. Retail commercial uses catering to travellers that rely heavily upon vehicular traffic for their business such as grocery stores are permitted in the Service Commercial designation.

Staff recognize the close proximity of residentially designated lands to the subject site, including the lands immediately to the east. The goals and objectives of the Residential designation as set out in the Official Plan outline that new development or redevelopment must be appropriately located and compatible with surrounding land uses in order to minimize the potential for land use compatibility impacts.

Staff are of the opinion that the proposed increase in height of the fence will assist in mitigating the operational noise impacts for the residents to the east of the site, thereby improving land use compatibility between the established service commercial and residential designations.

Staff consider the requested variance to maintain the general intent and purpose of the Official Plan.

5. TOWN, AGENCY AND PUBLIC COMMENTS

The application was circulated to all appropriate Town departments and external agencies, and public notice was provided as required by the *Planning Act*. The following responses were received:

Town Departments

Building – No objection.

Finance – No objection.

Fire and Emergency Services – No objection.

Heritage – No objection. Should the installation of the fence on the subject property unearth deeply buried archaeological resource(s), the owner is advised of the following:

“If deeply buried or previously undiscovered archaeological remains/resources are found during development activities on the subject lands, all activities must stop immediately. If the discovery is human remains, contact the police and coroner to secure the site. If the discovery is not human remains, the area must be secured to prevent site disturbance. The project proponent must then follow the steps outlined in the Niagara Region Archaeological Management Plan: Appendix C.”

Operations – No objection.

Urban Forestry – It is anticipated the project will be completed without having to remove any trees. All work must be completed in compliance with the Town’s Private Tree By-law.

Agencies

No agency comments were received at the time this report was prepared.

Public

One public comment was received at the time this report was prepared, submitted on behalf of the Condominium Corporation of the lands adjacent to the subject property. The comment aimed to ensure that the proposal will have no adverse impacts on the residents or common element property of the condominium. In response to this comment, the applicant noted that Loblaw's will take every effort to ensure that any negative effects on neighbouring lands related to the installation of the recommended noise fence will be minimized. Any tree removals associated with the proposal will be subject to the requirements of the Town's Tree By-law.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

The Committee may approve, refuse or modify the requested application.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

While removal of trees is not anticipated, the applicant will be required to comply with the Town's Private Tree Protection By-law No. 5139-19, in the event any tree removal is required during construction. As noted above, these impacts are related to the proposed location of the fence along the property line, and not the proposed increase in height.

10. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the application, notice of the decision will be given as set out in the *Planning Act*. The decision of the Committee of Adjustment is subject to a 20-day appeal period from the date of the decision. If no appeals are received during the appeal period, the decision is final.

Changes to provincial legislation have been made by way of Bill 23 and third-party appeals from private property owners are no longer permitted.

11. CONCLUSION

Planning Staff recommend approval of Fence Variance FV-04/24 as the requested variance is minor in nature, appropriate for the development or use of the land, building or structure, and is

considered to maintain the general intent and purpose of the By-law and Official Plan, pursuant to Subsection 45(1) of the *Planning Act*.

12. PREVIOUS REPORTS

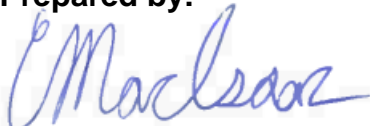
Not applicable.

13. APPENDICES

- Appendix I – Application Drawing and Elevations
- Appendix II – Location Map

Respectfully submitted:

Prepared by:



**Connor MacIsaac
Planner II**

Reviewed by:

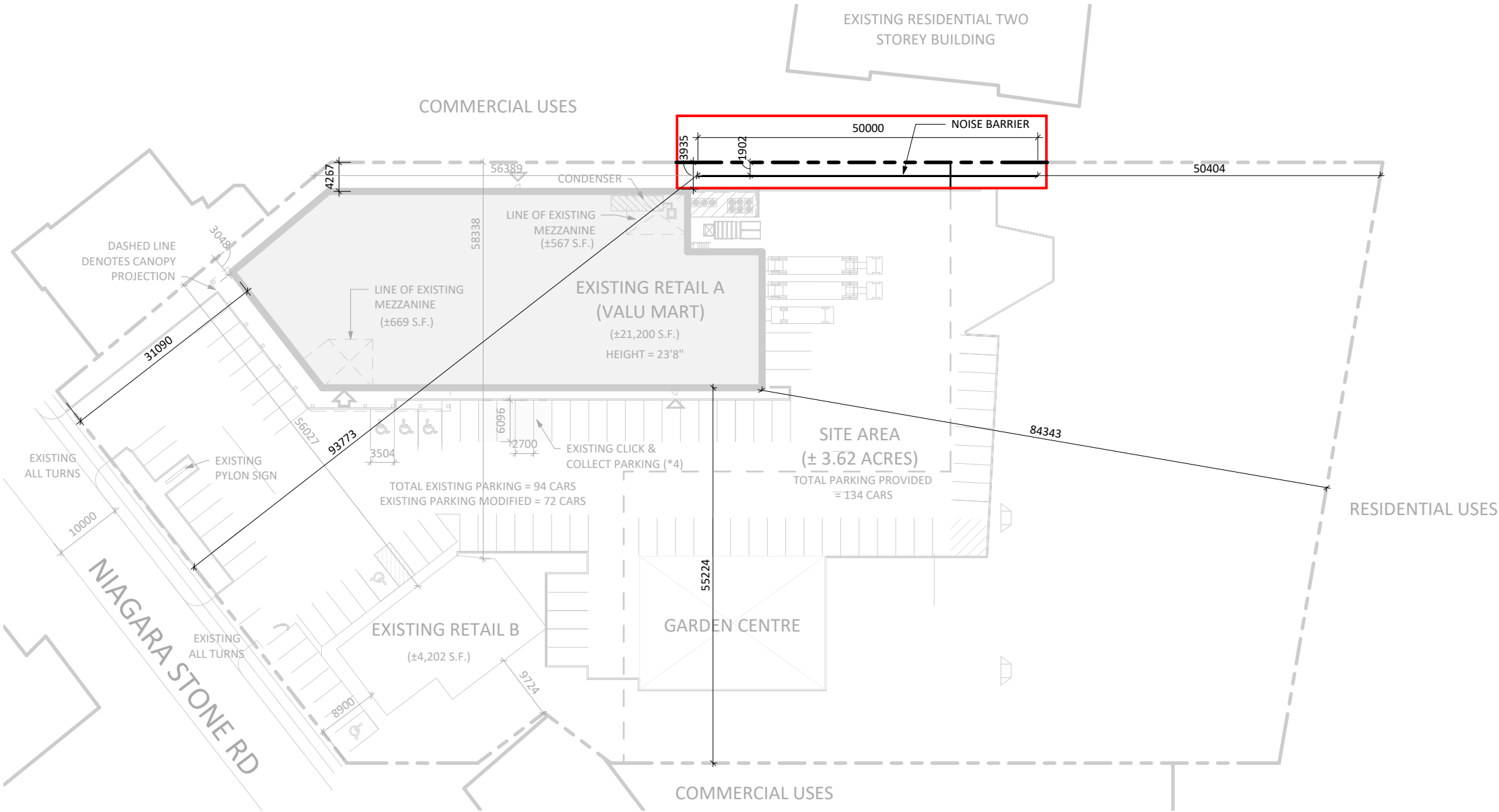


**Aimee Alderman, MCIP, RPP
Manager of Planning**

TURNER
FLEISCHER

STATISTICS

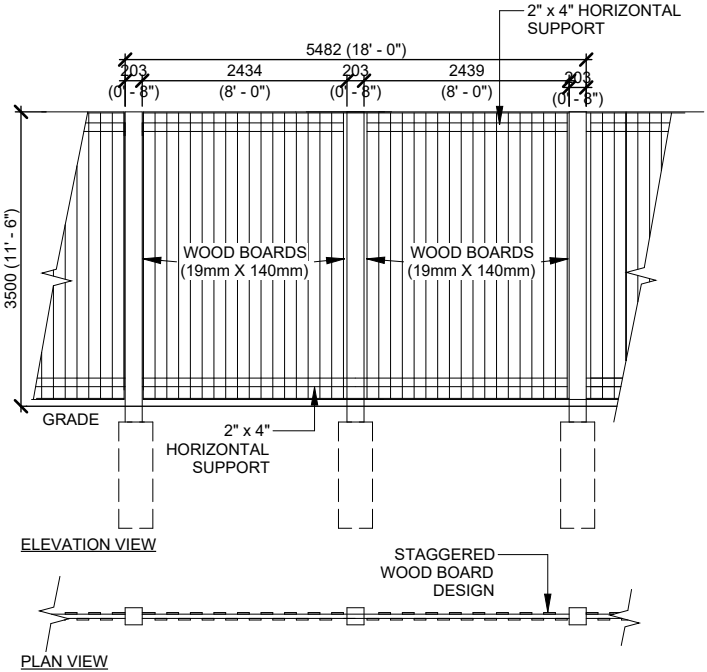
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EXISTING RETAIL A AREA	± 21,200 S.F.	± 1,970 S.M.
RETAIL A MEZZANINE	± 1,236 S.F.	± 114 S.M.
EXISTING RETAIL B AREA	± 4,202 S.F.	± 390 S.M.
TOTAL RETAIL AREA	± 25,402 S.F.	± 2,359 S.M.
TOTAL BUILDING AREA	± 26,638 S.F.	± 2,474 S.M.
TOTAL PARKING PROVIDED	134 CARS	
	5.27/1000 S.F.	5.68/100 S.M.
COVERAGE	13.81 %	



1 SITE PLAN
A1-20 1 : 750

NOTE: REFER TO SITE PLAN FOR FULL EXTENT OF FENCE

NOTE: SUBJECT TO STRUCTURAL ENGINEER'S APPROVAL.
TO BE REVIEWED BY ACOUSTIC CONSULTANT TO VERIFY COMPLIANCE WITH ACOUSTIC REPORT



2 WOOD FENCE DETAIL

Loblaw
Companies
Limited

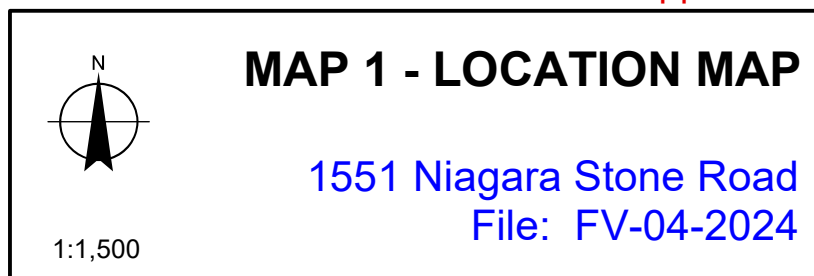
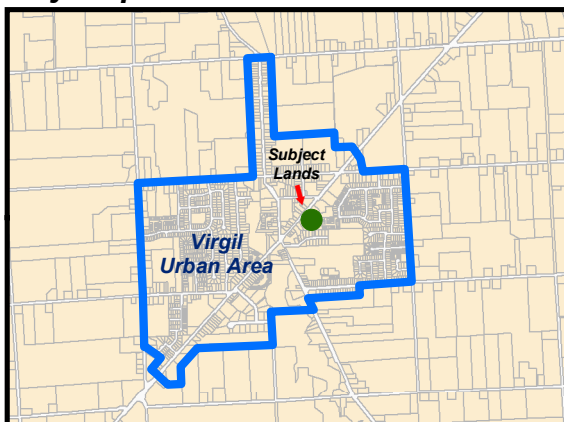
1551 REGIONAL RD 55

VIRGIL, ON
06.001P01
CONCEPT SITE PLAN
17K SF SDM

PRELIMINARY

DWG #: A1-20
2024-05-16
SCALE =As indicated





From: [Marg Colao](#)
To: [Natalie Thomson](#)
Subject: Fence variance application July 18/24 6pm
Date: July 5, 2024 7:19:41 AM

[You don't often get email from marg.colao@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Dear Natalie,

It has been brought to our attention that there is a Hybrid public meeting regarding a wooden fence height variance request at 1551 Niagara Stone Rd. This construction will directly affect, and is in relation to noise issues at our condo development directly behind this property.

The president of our condo corp and myself would like to be present for this presentation to ensure it will have no adverse impacts on our residents or common element property.

I understand we were to send you this request prior to July 17th in order to participate in this presentation.

I look forward to hearing from you with any other information you can provide us regarding this meeting and what may be required by us to attend.

Kind regards

Marg Colao

Sent from my iPad



Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-115 **COMMITTEE DATE:** 2024-07-18
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Consent Application B-02/24 – 489 Regent Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-02/24 for 489 Regent Street be approved, subject to the following conditions:
 - 1.1.1 That the owner/applicant provides a legal description of Part 1, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
 - 1.1.2 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 1, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
 - 1.1.3 That the owner/applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 1 using the direct comparison approach, to the satisfaction of the Manager of Finance; and that the owner/applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 5% of the appraised value of Part 1;
 - 1.1.4 That the owner/applicant enter into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 1, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:
 - 1.1.4.1 That Urban Design Committee review is required prior to issuance of a Building Permit for any new dwelling built on Part 1, and that any construction will be consistent with the Town's Official Plan and urban design guidelines and associated review by the Urban Design Committee, to the satisfaction of the Director of Community and Development

Services;

- 1.1.4.2 That the owner submits an application to facilitate the removal of trees, in accordance with the Town's Tree By-laws and to the satisfaction of the Town's Urban Forestry Officer;
- 1.1.4.3 That the owner implements the recommendations of the Tree Inventory and Preservation Plan, prepared by Jackson Arboriculture Inc., dated January 24, 2024, to the satisfaction of the Director of Community and Development Services and in consultation with the Town's Urban Forestry Officer; and
- 1.1.4.4 Any agreements of Purchase and Sale or Lease of Part 1, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
- 1.1.5 That the owner/applicant provide a lot grading plan for Part 1, completed by an Ontario Land Surveyor or Civil Engineer, and include existing grades on adjacent properties, to the satisfaction of the Chief Building Official;
- 1.1.6 That the owner/applicant obtains any required building permit for the removal/demolition of the structure that was previously located on the existing concrete pad on Part 1, and that final inspection and closure of the permit is completed to the satisfaction of the Chief Building Official;
- 1.1.7 That the Town Operations Department be provided with a copy of the deposited reference plan;
- 1.1.8 That the existing water and sanitary sewer services currently serving Part 2 of the proposed severance be disconnected a minimum of 2 metres north of the proposed property line between Parts 1 and 2 and be reconfigured to serve Part 1 if a minimum separation of 2 metres from the property line can be achieved. If the minimum separation from the property line required above cannot be achieved, that the owner/applicant installs new water and sanitary sewer services wholly fronting Part 1 via application to the Town's Environmental Services Department;
- 1.1.9 That the owner/applicant install new water and sanitary services wholly fronting Part 2 of the proposed severance via application to the Town's Environmental Services Department;
- 1.1.10 That the owner/applicant obtains approval in the form of municipal entrance permits from the Town's Operations Department for a future driveway on Part 1 of the proposed severance, and for alterations, if any, made to the existing driveway on Part 2, to the satisfaction of the Town's Operations Department; and
- 1.1.11 That the owner/applicant obtain final approval of Zoning By-law Amendment

Application ZBA-06-2024, to the satisfaction of the Director of Community and Development Services.

2. EXECUTIVE SUMMARY

Staff have received a Consent Application submitted pursuant to Section 53(12) of the *Planning Act* proposing to sever one new residential lot to create a total of two residential lots. The new lot would be for a future single-detached dwelling, and the retained lot would continue to support an existing single-detached dwelling. Town Staff have reviewed the application and consider it to meet applicable planning legislation and policies, subject to the recommended conditions.

3. PURPOSE

The applicant is proposing to create a total of two residential lots for residential use. Part 1 (severed lot) is proposed to have a lot frontage of 15.5 metres, and Part 2 (retained lot) is proposed to have a lot frontage of 19.3 metres. The existing single-detached dwelling on Part 2 is proposed to remain as existing, and is currently serviced by municipal water and sanitary connections. A future dwelling on the severed lot would be able to connect to municipal servicing.

The application drawing is attached as **Appendix I** to this report.

4. BACKGROUND

4.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 489 Regent Street, located on the west side of Regent Street, between Mary Street and John Street West, within the urban area of Old Town. The location of the subject lands is shown on **Appendix II** to this report.

Part 1 is proposed to have a lot area of 737 square metres and a frontage of 15.5 metres, while Part 2 is proposed to have a lot area of 927 square metres and a frontage of 19.3 metres. The existing dwelling on Part 2 is proposed to be retained. Municipal water and sanitary connections are existing and available to the subject lands.

The surrounding lands are characterized by residential and hospitality/commercial uses.

4.2 Zoning By-law Amendment Application

Zoning By-law Amendment Application ZBA-06-2024 and By-law 4316FO-24 were approved by Town Council on June 25, 2024. It is anticipated that the Zoning By-law Amendment will receive final approval on July 17, 2024, subject to any appeals received. The site-specific by-law facilitates the proposed Consent application and includes provisions for lot frontages, garages, existing side yard setback and permission for existing operating apparatus to be located within the interior side yard. The Zoning By-law Amendment is attached as **Appendix III** to this report.

5. DISCUSSION / ANALYSIS

Section 3(5) of the *Planning Act*, R.S.O. 1990, c. P.13 states that a decision of Council, in respect to any planning matter, shall be consistent with the Provincial Policy Statement and conform with the Provincial Plans.

Section 53(12) of the *Planning Act* states that Council, in determining whether a provisional consent is to be given, shall have regard to the matters under Section 51(24), and that conditions of consent may be imposed as set out in Sections 51(25), 51(26) and 51.1.

The subject lands are designated “Delineated Built-up Area” in the Niagara Official Plan (2022) and “Established Residential” and “Built-up Area” in the Town’s Official Plan (2017 Consolidation, as amended). The Regional and Town Official Plans generally encourage intensification within the Built-up Area. Single-detached dwellings are permitted.

The Growth Management Policies under Section 6A of the Town Official Plan provides that growth and development should be directed within the Town’s existing urban areas to provide for efficient use of land, services and infrastructure.

Section 6.33 of the Town Official Plan directs that existing trees must not be unnecessarily removed and that wherever possible, existing trees should be preserved and protected. The policies further state that within urban areas, where it is unavoidable that trees be removed, the proponent must plant trees of a similar or comparable species on the site or elsewhere in the Town, to the Town’s satisfaction. It is also recognized that this can be implemented through a condition of development.

A Tree Inventory and Preservation Plan Report, prepared by Jackson Arboriculture Inc., dated January 24, 2024, was submitted to evaluate the trees on or in proximity to the subject lands. The report considered all trees on and adjacent to the subject lands and concluded that out of the 15 trees on-site, four (4) are identified for removal on the severed lot to accommodate a future dwelling. The remaining trees on the retained and severed lots will be preserved and protected. The Tree Preservation Plan has identified tree protection zones in the form of fencing to ensure the retained trees are not impacted by development. Some of the trees proposed for removal could be defined as boundary trees, possibly shared with 481 Regent Street. The removal of boundary trees may require the submission of a “Declaration of Adjacent Property Owner” form where the adjacent owner is to consent to the tree to be removed under the provisions of By-law 5139-19, which regulates the destruction or injuring of trees on private property within the urban areas. The Town will require a separate application to facilitate any tree removals and will implement replanting conditions and fees at that time. Conditions have been recommended for the removal and protection of the trees.

The Residential Goals and Objectives outlined under Section 9.2 of the Town Official Plan includes ensuring that new development is appropriately located and compatible with surrounding land uses and encourages residential infill where it will contribute to the more efficient use of municipal services.

The proposed severance would facilitate an opportunity for appropriate residential infill development within an urban area. The new residential lot results in a more efficient use of the lands and existing infrastructure and services. The applicant's Streetscape Analysis, contained within the Planning Justification Report (dated March 2024), provided discussion and analysis on the block face between Mary Street and John Street West on both sides of Regent Street. A total of eight (8) properties were evaluated, including the subject lands. The frontages within these block faces vary between 16 metres and 30 metres. Staff are of the opinion that the retained and severed parcels would have appropriate frontages, being 19.3 metres for the retained lot and 15.5 metres for the severed lot, to accommodate the residential uses of the lands. The proposed lot configurations are comparable in size to surrounding residential lots in the immediate area.

The subject lands are zoned "Established Residential (ER) Site-Specific" through Zoning By-law 4316FO-24, an amendment to Zoning By-law 4316-09 (as amended). Part 1 (severed lot) contains site-specific provisions for lot frontage, garage setbacks and garage door widths, while Part 2 (retained lot) contains provisions for lot frontage, an existing interior side yard setback and to recognize the existing operating apparatus (air conditioning unit) within the northeastern interior side yard. The by-law received approval by Council on June 25, 2024, and is subject to a 20-day appeal period that would expire on July 17, 2024, should no appeals be received. The remaining provisions of the standard ER Zone and By-law 4316-09 will be maintained on both lots.

5.1 Town, Agency and Public Comments

This application was circulated to all appropriate Town Departments and external agencies, and public notice of the application was provided as required by the *Planning Act*. The following responses were received:

Town Departments

Building – No objections. Conditions requested regarding a lot grading plan for Part 1 and a demolition permit for the structure that was previously on the concrete pad on Part 1.

Finance – No objections.

Fire and Emergency Services – No objections.

Heritage – No objections.

Operations – No objections. Conditions requested relating to servicing, entrance permits and trees.

Agencies

Enbridge – No objections.

Hydro One – No objections.

Public

No public comments were received at the time this report was prepared.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

The Committee may approve, refuse or modify the requested Consent and/or conditions.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

The removal of up to four (4) trees on the subject lands may be required to facilitate a future single-detached dwelling on the severed lot (Part 1). A minimum of 11 existing trees are proposed to be retained on the subject lands. Town Staff recommends the implementation of a Development Agreement to ensure the preservation and protection of the trees.

10. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the application, notice of the decision will be given as required in the *Planning Act*. The decision of the Committee is subject to a 20-day appeal period following notice of the Committee's decision. If no appeals are received during the appeal period, the decision of the Committee is final.

Changes to provincial legislation have been made by way of Bill 23, and third-party appeals from private property owners are no longer permitted.

11. CONCLUSION

Community & Development Services Staff recommend approval of Consent Application B-02/24 for 489 Regent Street, subject to the recommended conditions, as the application meets the *Planning Act* requirements for lot creation, is consistent with the Provincial Policy Statement and complies with the Growth Plan, Niagara Official Plan, and Town Official Plan.

12. PREVIOUS REPORTS

- **CDS-24-073** – Public Meeting – 489 Regent Street (ZBA-06-2024) (May 7, 2024)
- **CDS-24-084** – Recommendation Report – 489 Regent Street (ZBA-06-2024) (June 11, 2024)

13. APPENDICES

- Appendix I – Application Drawing
- Appendix II – Location Map
- Appendix III – Zoning By-law Amendment 4316FO-24

Respectfully submitted:

Prepared by:

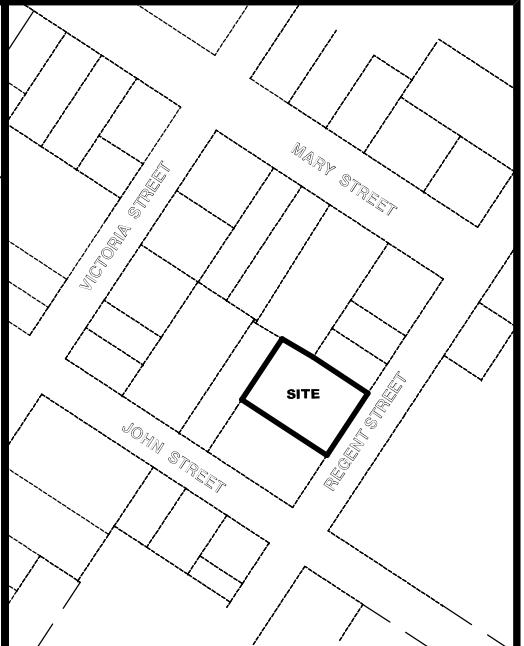
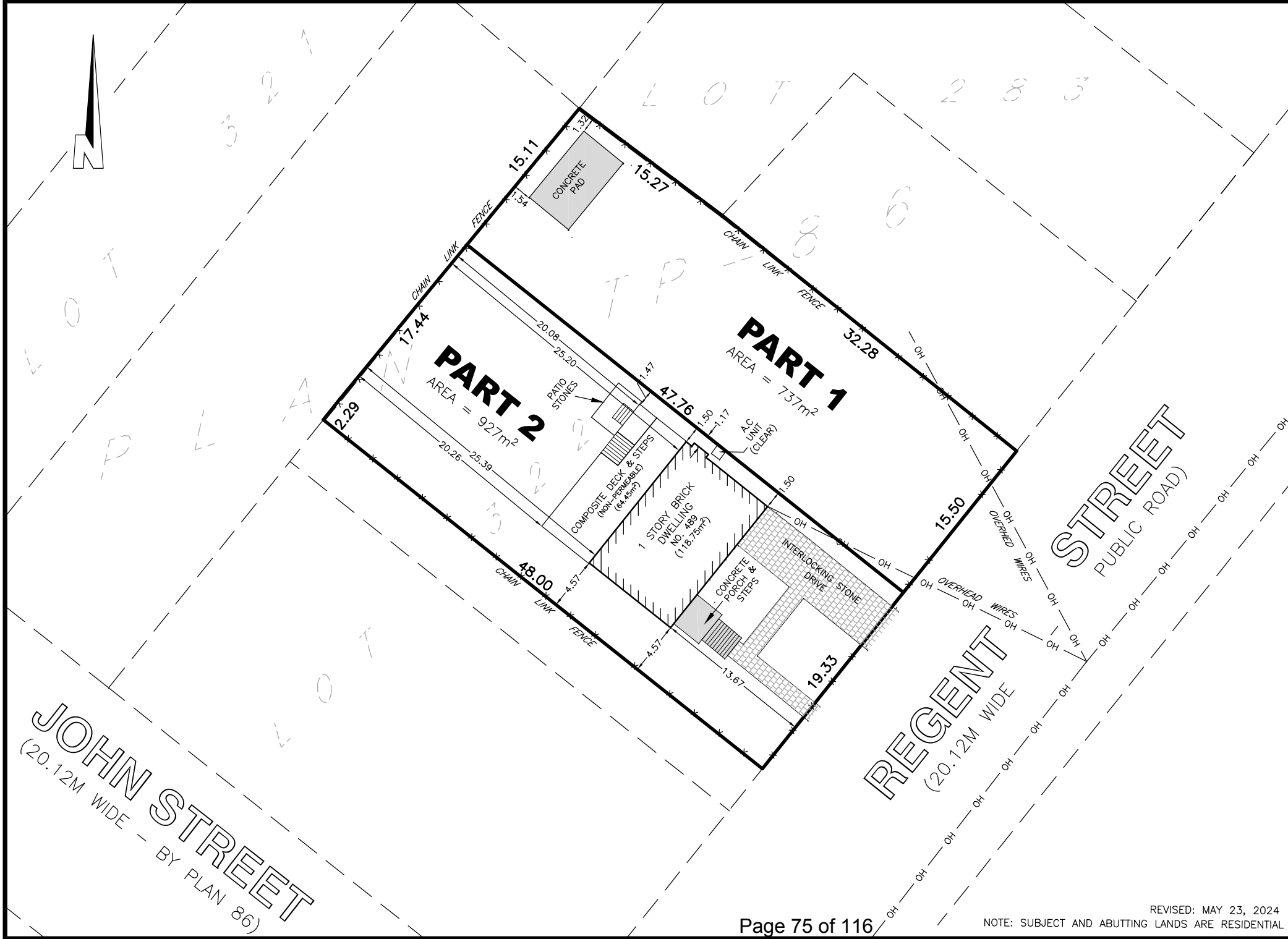
A handwritten signature in black ink, appearing to read 'Victoria' followed by a stylized surname.

**Victoria Nikoltcheva
Planner II**

Reviewed by:

A handwritten signature in black ink, appearing to read 'Aimee Alderman'.

**Aimee Alderman, MCIP, RPP
Manager of Planning**



SKETCH
PREPARED FOR SEVERANCE APPLICATION
PART OF LOT 322
ON PLAN TP-86
IN THE
**TOWN OF NIAGARA-ON-
THE-LAKE**
REGIONAL MUNICIPALITY OF NIAGARA
SCALE 1 : 400 (METRIC)

NOTE: THIS SKETCH IS PREPARED FROM COMPILED AND
CALCULATED INFORMATION, NOT FROM AN ACTUAL SURVEY.
DO NOT SCALE FROM THIS DRAWING.
ALL MEASUREMENTS ARE +/- MEASUREMENTS.

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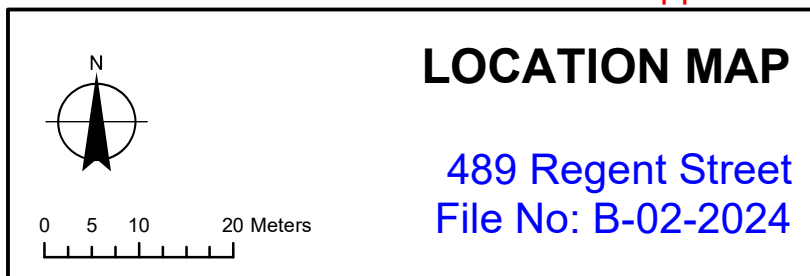
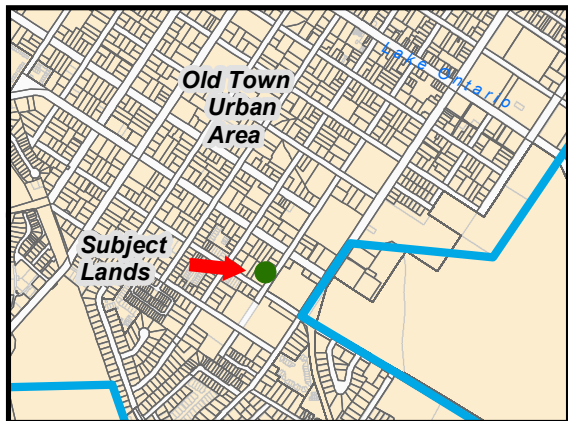
AUG 18, 2022
DATE

DONALD G. CHAMBERS, B. Sc., O.L.S.

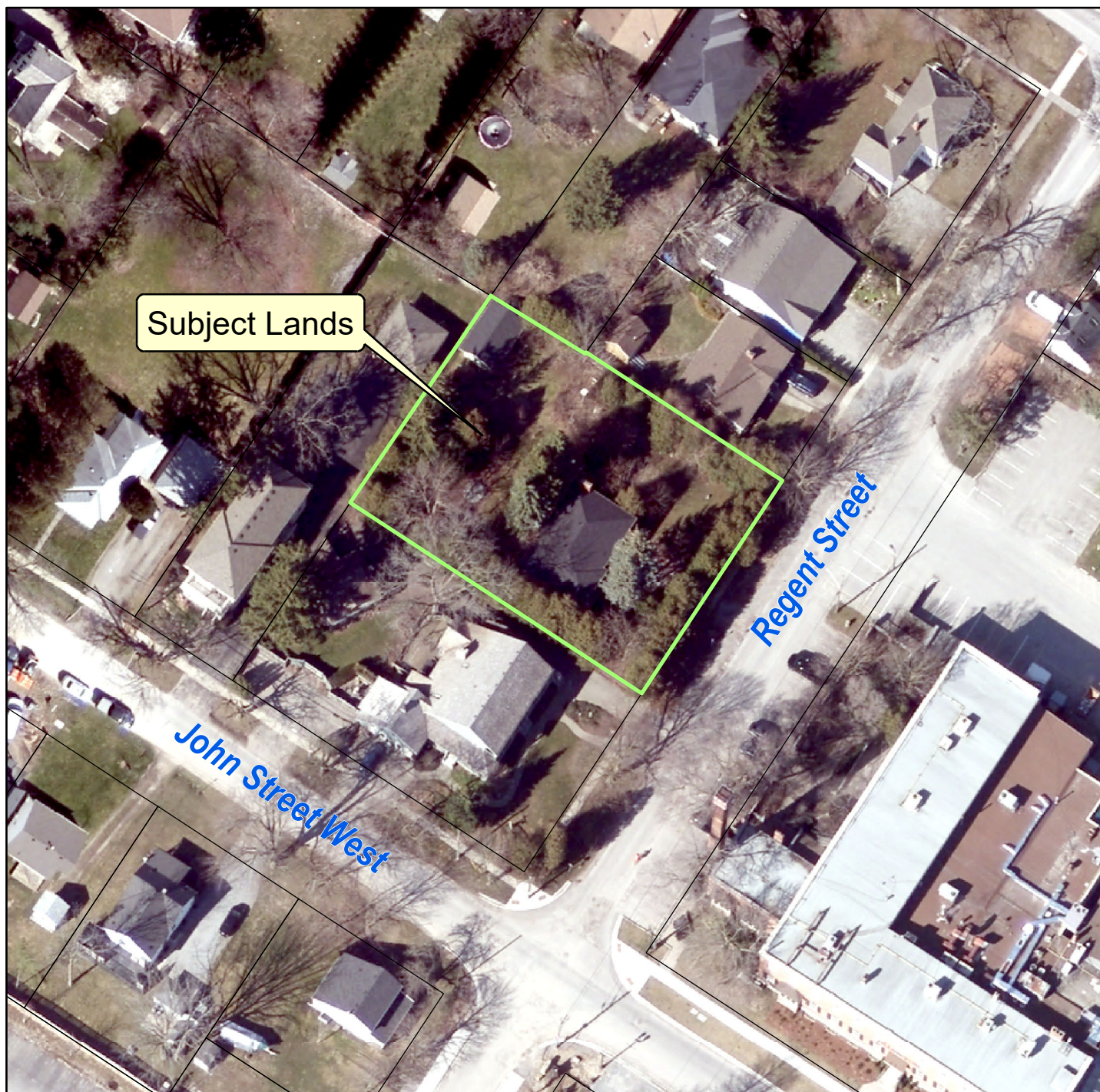
**CHAMBERS AND ASSOCIATES
SURVEYING LTD**
12 THOROLD ROAD EAST
WELLAND ONTARIO
L3C 3T2

(905) 735-7841 / 735-7844
FAX (905) 735-7333
www.casl-surveying.com

DWG **22005_SEV** FILE **22-05**



1:800



Explanation of the Purpose and Effect of
By-law 4316FO-24

The subject lands are described as 489 Regent Street, Niagara-on-the-Lake, more particularly described as Part of Lot 322, Township Plan 86 Niagara as in RO685813; Town of Niagara-on-the-Lake, Regional Municipality of Niagara.

Purpose

The purpose of this By-law is to rezone the subject lands to permit the creation of one (1) new residential lot for the construction of a single-detached dwelling and retain one (1) residential lot with an existing single-detached dwelling for continued residential use.

Effect

The effect of this By-law is to rezone the subject lands from “Old Town Community Zoning District – Established Residential (ER) Zone” to “Old Town Community Zoning District – Established Residential [ER-113(a)] Site-Specific Zone” and “Old Town Community Zoning District – Established Residential [ER-113(b)] Site-Specific Zone” with site-specific provisions pertaining to:

- Lot frontage
- Garage setback and garage door width
- Side yard setback for existing chimney with foundation
- Permit existing operating apparatus (air conditioning unit) in the interior side yard

Owner:	Landen Wakil
File Number:	ZBA-06-2024
Report Numbers:	CDS-24-084
Assessment Roll Number:	262701000322400

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 4316FO-24**

489 Regent Street, Roll #: 262701000322400

A BY-LAW TO AMEND BY-LAW NO. 4316-09, AS AMENDED, ENTITLED
A BY-LAW TO REGULATE THE USE OF LANDS AND THE ERECTION,
USE, BULK, HEIGHT, LOCATION, AND SPACING OF BUILDINGS AND
STRUCTURES WITHIN THE TOWN OF NIAGARA-ON-THE-LAKE.

WHEREAS the Town of Niagara-on-the-Lake Council is empowered to enact this By-law by virtue of the provisions of Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

AND WHEREAS this By-law conforms to the Town of Niagara-on-the-Lake Official Plan.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE enacts as follows:

1. Schedule "A-1" of By-law 4316-09, as amended, is further amended by changing the zoning of the subject lands identified on Map 'A' attached to and forming part of this By-law from "Old Town Community Zoning District – Established Residential (ER) Zone" to "Old Town Community Zoning District – Established Residential [ER-113(a)] Site-Specific Zone" and "Old Town Community Zoning District – Established Residential [ER-113(b)] Site-Specific Zone".
2. That Subsection 7.14 Site Specific Exceptions of By-law 4316-09, as amended, is hereby further amended by adding the following section:

7.14.113 – 489 Regent Street – See Schedule ‘A-1’ [ER-113(a) and ER-113(b)]

7.14.113.1 ER-113 (a) Zone Requirements

In lieu of and in addition to the corresponding provisions of Subsection 7.1.2, the following provisions shall apply to the subject lands identified as ER-113 (a) on Schedule ‘A-1’:

(a)	Minimum lot frontage Minimum lot depth	15 m (49.2 ft) As existing
(k)	A detached or attached garage shall be setback a minimum of 1 metre behind the main façade of the dwelling on the ground floor	
(l)	The door(s) of an attached garage shall not occupy more than 50% of the width of the dwelling façade	

7.14.113.2 ER-113 (b) Zone Requirements

In lieu of and in addition to the corresponding provisions of Subsection 7.1.2, the following provisions shall apply to the subject lands identified as ER-113 (b) on Schedule ‘A-1’:

(a)	Minimum lot frontage Minimum lot depth	19 m (62.3 ft) As existing
(k)	Interior side yard setback to existing chimney with foundation	1.0 m (3.2 ft)

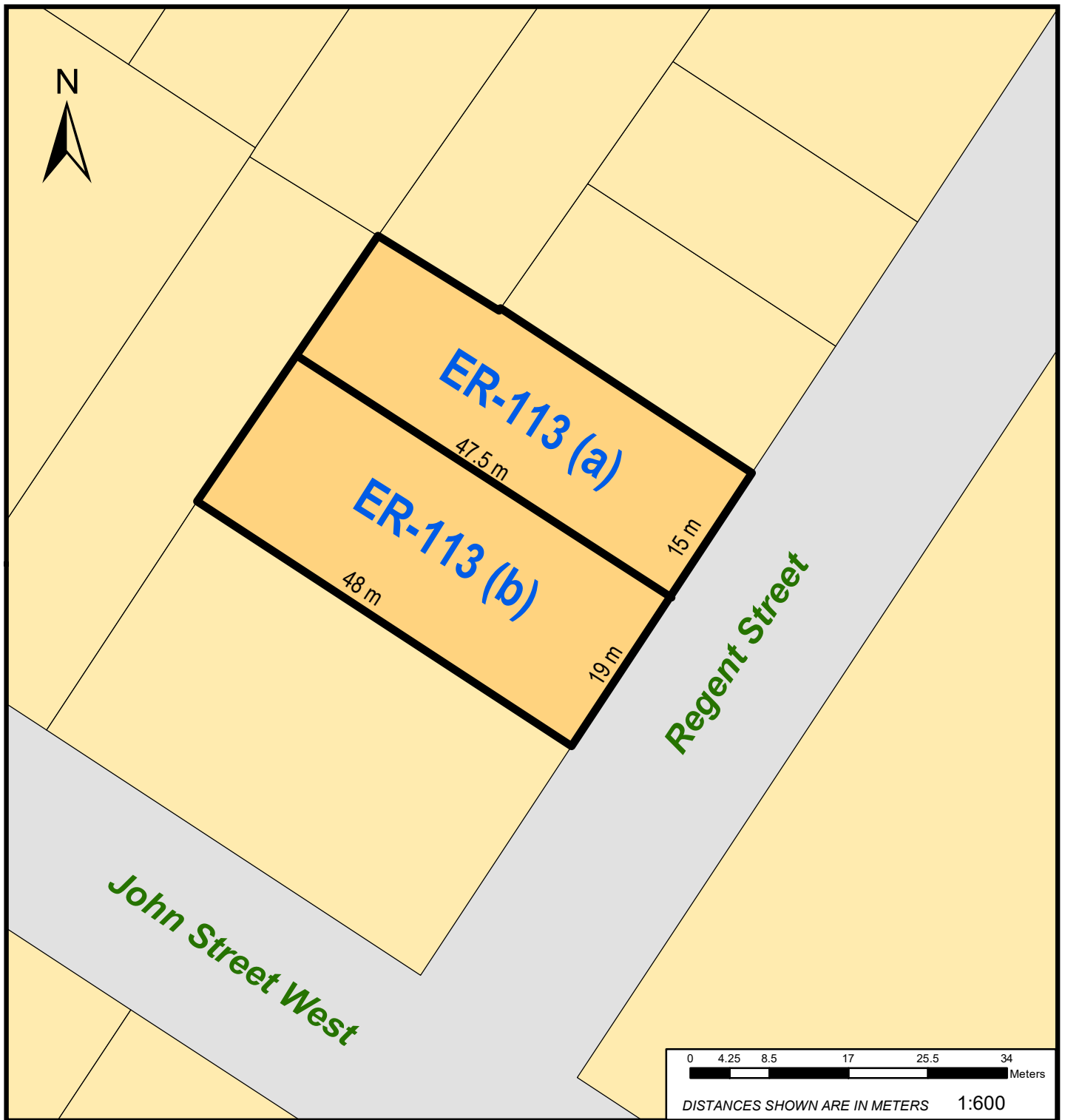
7.14.113.3 Notwithstanding Subsection 6.1(f) and applicable to the subject lands identified as ER-113 (b) on Schedule ‘A-1’, the existing operating apparatus (air conditioning unit) is permitted in the northeastern interior side yard.

3. All other provisions of Zoning By-law 4316-09, as amended, shall continue to apply to the subject lands.
4. That the effective date of this By-law shall be the date of final passage thereof.

READ A FIRST, SECOND AND THIRD TIME THIS 25TH DAY OF JUNE, 2024.

LORD MAYOR GARY ZALEPA

TOWN CLERK GRANT BIVOL



MAP 'A' ATTACHED TO BY-LAW 4316FO-24, BEING AN AMENDMENT TO SCHEDULE "A-1" OF ZONING BY-LAW 4316-09, AS AMENDED, OF THE TOWN OF NIAGARA-ON-THE-LAKE AS PASSED ON THIS 25th DAY OF JUNE, 2024.

LORD MAYOR
GARY ZALEPA

TOWN CLERK
GRANT BIVOL



Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-114 **COMMITTEE DATE:** 2024-07-18
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Consent Applications B-03/24, B-04/24 & B-05/24 – 1320 Niagara Stone Road

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-03/24 (Part 2) be approved, subject to the following conditions:
 - 1.1.1 That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
 - 1.1.2 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 2, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
 - 1.1.3 That the owner/applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 2 using the direct comparison approach, to the satisfaction of the Manager of Finance; and that the owner/applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 5% of the appraised value of Part 2;
 - 1.1.4 That the owner/applicant enter into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 2, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:
 - 1.1.4.1 That Urban Design Committee review is required prior to issuance of a Building Permit for any new dwelling built on Part 2, and that any construction will be consistent with the Town's Official Plan and urban design guidelines and associated review by the Urban Design Committee, to the satisfaction of the Director of Community and

Development Services;

- 1.1.4.2 That the owner provides an updated Tree Preservation Plan to reflect the installation of the required services, including setback distances for tree protection fencing based on DBH measurements;
- 1.1.4.3 That the owner implements the recommendations of the updated Tree Inventory and Preservation Plan to the satisfaction of the Director of Community and Development Services and in consultation with the Town's Urban Forestry Officer;
- 1.1.4.4 That the owner submits an application to facilitate the removal of trees, in accordance with the Town's Tree By-laws and to the satisfaction of the Town's Urban Forestry Officer;
- 1.1.4.5 That the owner/applicant provide a lot grading plan for Part 2, completed by an Ontario Land Surveyor or Civil Engineer, and include existing grades on adjacent properties, to the satisfaction of the Chief Building Official; and
- 1.1.4.6 Any agreements of Purchase and Sale or Lease of Part 2, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
- 1.1.5 That the owner/applicant submit a stormwater management brief indicating in detail how the development's additional stormwater to be accommodated with no negative impact to Niagara Stone Road, be circulated to Niagara Region for review and approval; and
- 1.1.6 That the owner/applicant install new water and sanitary sewer services wholly fronting Part 2 of the proposed severance via application to the Town's Environmental Services Department.
- 1.2 Consent Application B-04/24 (Parts 3 and 4) be approved, subject to the following conditions:
 - 1.2.1 That the owner/applicant provides a legal description of Part 3, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
 - 1.2.2 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 3, has been

carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;

- 1.2.3 That the owner/applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 3 using the direct comparison approach, to the satisfaction of the Manager of Finance; and that the owner/applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 5% of the appraised value of Part 3;
- 1.2.4 That the owner/applicant provides a legal description of Part 4, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
- 1.2.5 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. registration of the easement on Part 4, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
- 1.2.6 That the owner/applicant enter into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 3 and 4, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:
 - 1.2.6.1 That Urban Design Committee review is required prior to issuance of a Building Permit for any new dwelling built on Part 3, and that any construction will be consistent with the Town's Official Plan and urban design guidelines and associated review by the Urban Design Committee, to the satisfaction of the Director of Community and Development Services;
 - 1.2.6.2 That the owner provides an updated Tree Preservation Plan to reflect the installation of the required services, including setback distances for tree protection fencing based on DBH measurements;
 - 1.2.6.3 That the owner implements the recommendations of the updated Tree Inventory and Preservation Plan to the satisfaction of the Director of Community and Development Services and in consultation with the Town's Urban Forestry Officer;
 - 1.2.6.4 That the owner submits an application to facilitate the removal of trees, in accordance with the Town's Tree By-laws and to the satisfaction of

the Town's Urban Forestry Officer;

- 1.2.6.5 That the owner/applicant provide a lot grading plan for Part 3 and 4, completed by an Ontario Land Surveyor or Civil Engineer, and include existing grades on adjacent properties, to the satisfaction of the Chief Building Official; and
- 1.2.6.6 Any agreements of Purchase and Sale or Lease of Part 3 and 4, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
- 1.2.7 That the owner/applicant submit a stormwater management brief indicating in detail how the development's additional stormwater to be accommodated with no negative impact to Niagara Stone Road, be circulated to Niagara Region for review and approval;
- 1.2.8 That the owner/applicant provide detailed engineering drawings for the proposed entrance and servicing lateral for review and approval by the Niagara Region; and
- 1.2.9 That the owner/applicant install new water and sanitary sewer services wholly fronting Part 3 and 4 of the proposed severance via application to the Town's Environmental Services Department.
- 1.3 Consent Application B-05/24 (Part 5) be approved, subject to the following conditions:
 - 1.3.1 That the owner/applicant provides a legal description of Part 5, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
 - 1.3.2 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 5, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
 - 1.3.3 That the owner/applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 5 using the direct comparison approach, to the satisfaction of the Manager of Finance; and that the owner/applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 5% of the appraised value of Part 5;

- 1.3.4 That the owner/applicant enter into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 5 to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:
- 1.3.4.1 That Urban Design Committee review is required prior to issuance of a Building Permit for any new dwelling built on Part 5, and that any construction will be consistent with the Town's Official Plan and urban design guidelines and associated review by the Urban Design Committee, to the satisfaction of the Director of Community and Development Services;
 - 1.3.4.2 That the owner provides an updated Tree Preservation Plan to reflect the installation of the required services, including setback distances for tree protection fencing based on DBH measurements;
 - 1.3.4.3 That the owner implements the recommendations of the updated Tree Inventory and Preservation Plan to the satisfaction of the Director of Community and Development Services and in consultation with the Town's Urban Forestry Officer;
 - 1.3.4.4 That the owner submits an application to facilitate the removal of trees, in accordance with the Town's Tree By-laws and to the satisfaction of the Town's Urban Forestry Officer;
 - 1.3.4.5 That the owner/applicant provide a lot grading plan for Part 5, completed by an Ontario Land Surveyor or Civil Engineer, and include existing grades on adjacent properties, to the satisfaction of the Chief Building Official; and
 - 1.3.4.6 Any agreements of Purchase and Sale or Lease of Part 5, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
- 1.3.5 That the owner/applicant submit a stormwater management brief indicating in detail how the development's additional stormwater to be accommodated with no negative impact to Niagara Stone Road, be circulated to Niagara Region for review and approval; and
- 1.3.6 That the owner/applicant install new water and sanitary sewer services wholly fronting Part 5 of the proposed severance via application to the Town's Environmental Services Department.

2. EXECUTIVE SUMMARY

Staff have received Consent Applications submitted pursuant to Section 53(12) of the *Planning Act* proposing to create a total of four lots for residential use and one lot for a shared right-of-way easement in benefit of the three new lots. Town Staff have reviewed the applications and consider them to meet applicable planning legislation and policies, subject to the recommended conditions.

3. PURPOSE

The applicant is proposing to create a total of four residential lots for residential use and one right-of-way easement to permit access to Niagara Stone Road for the three new lots.

Part 1 is proposed to have an area of 1,184.7 square metres and a frontage of 48.2 metres along Niagara Stone Road, and currently contains an existing dwelling connected to municipal water and sanitary services.

Part 2 is proposed to have an area of 1,047.3 square metres and a frontage of 18 metres along Niagara Stone Road. The lot is currently vacant and municipal servicing connections are available for a future dwelling.

Part 3 is proposed to have an area of 846.46 square metres and a frontage of 18 metres on Niagara Stone Road through the proposed easement (Part 4). The lot is currently vacant and municipal servicing connections are available for a future dwelling.

Part 4 is proposed to have an area of 180 square metres and a frontage of 18 metres along Niagara Stone Road. This Part is currently vacant and would provide a shared access to the new residential lots (Part 2, 3 and 5).

Part 5 is proposed to have an area of 790.5 square metres and a frontage of 6.7 metres along Niagara Stone Road. The lot is currently vacant and municipal servicing connections are available for a future dwelling.

The application drawing is attached as **Appendix I** to this report.

4. BACKGROUND

4.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 1320 Niagara Stone Road, located on the northwest side of Niagara Stone Road, east of Pierpoint Drive, within the urban area of Virgil. The location of the subject lands is shown on **Appendix II** to this report.

Part 1 is proposed to have an area of 1,184.7 square metres and a frontage of 48.2 metres along Niagara Stone Road.

Part 2 is proposed to have an area of 1,047.3 square metres and a frontage of 18 metres along Niagara Stone Road.

Part 3 is proposed to have an area of 846.46 square metres and a frontage of 18 metres on Niagara Stone Road through the proposed easement (Part 4).

Part 4 is proposed to have an area of 180 square metres and a frontage of 18 metres along Niagara Stone Road. This Part is currently vacant and would provide a shared access to the new residential lots (Part 2, 3 and 5).

Part 5 is proposed to have an area of 790.5 square metres and a frontage of 6.7 metres along Niagara Stone Road.

Parts 2, 3 and 5 are currently vacant and municipal servicing connections are available for future dwellings.

The surrounding lands are characterized by residential and institutional uses.

4.2 Zoning By-law Amendment Application

Zoning By-law Amendment Application ZBA-01-2024 and By-law 4316FM-24 were approved by Town Council on May 28, 2024, and further received final approval on June 18, 2024, since no appeals were filed. The site-specific by-law facilitates the proposed Consent applications and includes provisions for a reduced lot frontage on Part 5 and driveway setback for the common shared access on Part 4. The Zoning By-law Amendment is attached as **Appendix III** to this report.

5. DISCUSSION / ANALYSIS

Section 3(5) of the *Planning Act, R.S.O. 1990, c. P.13* states that a decision of Council, in respect to any planning matter, shall be consistent with the Provincial Policy Statement and conform with the Provincial Plans.

Section 53(12) of the *Planning Act* states that Council, in determining whether a provisional consent is to be given, shall have regard to the matters under Section 51(24), and that conditions of consent may be imposed as set out in Sections 51(25), 51(26) and 51.1.

The subject lands are designated “Delineated Built-up Area” in the Niagara Official Plan (2022) and “Low Density Residential” and “Built-up Area” in the Town’s Official Plan (2017 Consolidation, as amended). The Regional and Town Official Plans generally encourage intensification within the Built-up Area. Single-detached dwellings are permitted.

The Growth Management Policies under Section 6A of the Town Official Plan provides that growth and development should be directed within the Town’s existing urban areas to provide for efficient use of land, services and infrastructure.

Section 6.33 of the Town Official Plan directs that existing trees must not be unnecessarily removed and that wherever possible, existing trees should be preserved and protected. The policies further state that within urban areas, where it is unavoidable that trees be removed, the proponent must plant trees of a similar or comparable species on the site or elsewhere in

the Town, to the Town's satisfaction. It is also recognized that this can be implemented through a condition of development.

An Arborist Report and Tree Inventory and Preservation Plan, dated December 13 and 20, 2023, respectively, were submitted and assessed 95 of the existing trees on the subject lands. The removal of 42 trees and partial removal of a tree group, which contains a total of seven (7) trees, is required to accommodate the proposed development. A minimum of 46 trees will be retained on the subject lands to be preserved and protected by implementing standard protection measures such as the installation of tree protection hoarding at the limit of the tree protection zone where there is to be no construction, alteration of grade, storage of equipment or movement of vehicles within these protection zones. The Town will require a separate application to facilitate any tree removals and will implement replanting conditions and fees at that time. Conditions have been recommended for the submission of an updated preservation plan to reflect proposed servicing lateral locations, as well as for the removal and protection of the trees, through a Development Agreement.

The Residential Goals and Objectives outlined under Section 9.2 of the Town Official Plan includes ensuring that new development is appropriately located and compatible with surrounding land uses and encourages residential infill where it will contribute to the more efficient use of municipal services.

The proposal facilitates an opportunity for appropriate residential infill development within an urban area, where the new residential lots would result in more efficient use of the oversized parcel and existing infrastructure and services. The proposed lot configurations, in terms of size, frontage and shape, are similar to residential lots to the west of the subject lands, as well as directly south across Niagara Stone Road. The shared right-of-way easement (Part 4) minimizes the number of driveways along the Regional Road and would provide direct access to and from the new lots (Parts 2, 3 and 5), as well as minimize the amount of tree removal required to facilitate access to these lots. The retained lot will remain as-existing, retaining the dwelling and existing driveway to Niagara Stone Road.

The subject lands are zoned "Residential (R1) Site-Specific" through Zoning By-law 4316FM-24, an amendment to Zoning By-law 4316-09 (as amended). Site-specific provisions include a 0.0 metre setback for the proposed shared driveway on Part 4, as well as a reduced frontage of 6.7 metres for Part 5. The by-law received approval by Council on May 28, 2024, and further received final approval on June 18, 2024, as no appeals were filed. The remaining provisions of the standard R1 Zone in Virgil and By-law 4316-09 will be maintained on the lots.

5.1 Town, Agency and Public Comments

These applications were circulated to all appropriate Town Departments and external agencies, and public notice of the applications was provided as required by the *Planning Act*. The following responses were received:

Town Departments

Building – No objections. Development charge will be applicable for the newly created lots at the building permit stage. Conditions requested regarding a lot grading plan for all lots.

Finance – No objections.

Fire and Emergency Services – No objections.

Heritage – No objections.

Operations – No objections. Conditions requested regarding servicing and trees.

Urban Forestry – No objections. An updated preservation plan should include setback distances for tree protection fencing. Conditions requested regarding an updated tree preservation plan and permit requirements.

Agencies

Enbridge – No objections.

Hydro One – No objections.

Niagara Region – No objections. Conditions requested regarding the submission of a stormwater management brief and detailed engineering drawings for the proposed entrance and servicing lateral locations.

Public

No public comments were received at the time this report was prepared.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

The Committee may approve, refuse or modify the requested Consent and/or conditions.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

The removal of up to 42 trees and partial removal of a tree group, which contains a total of seven (7) trees, on the subject lands may be required to facilitate future single-detached dwellings on the new lots, as well as servicing lateral locations and driveway access. A minimum of 46 existing trees are proposed to be retained on the subject lands. Town Staff

recommends the implementation of Development Agreements, including the recommended wording, to ensure the preservation and protection of the trees.

10. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the applications, notice of the decision will be given as required in the *Planning Act*. The decision of the Committee is subject to a 20-day appeal period following notice of the Committee's decision. If no appeals are received during the appeal period, the decision of the Committee is final.

Changes to provincial legislation have been made by way of Bill 23, and third-party appeals from private property owners are no longer permitted.

11. CONCLUSION

Community & Development Services Staff recommend approval of Consent Applications B-03/24, B-04/24 & B-05/24 for 1320 Niagara Stone Road, subject to the recommended conditions, as the applications meet the *Planning Act* requirements for lot creation, are consistent with the Provincial Policy Statement and comply with the Growth Plan, Niagara Official Plan, and Town Official Plan.

12. PREVIOUS REPORTS

- **CDS-24-053** – Public Meeting – 1320 Niagara Stone Road (ZBA-01-2024) (April 9, 2024)
- **CDS-24-077** – Recommendation Report – 1320 Niagara Stone Road (ZBA-01-2024) (May 7, 2024)

13. APPENDICES

- Appendix I – Application Drawing
- Appendix II – Location Map
- Appendix III – Zoning By-law Amendment 4316FM-24

Respectfully submitted:

Prepared by:

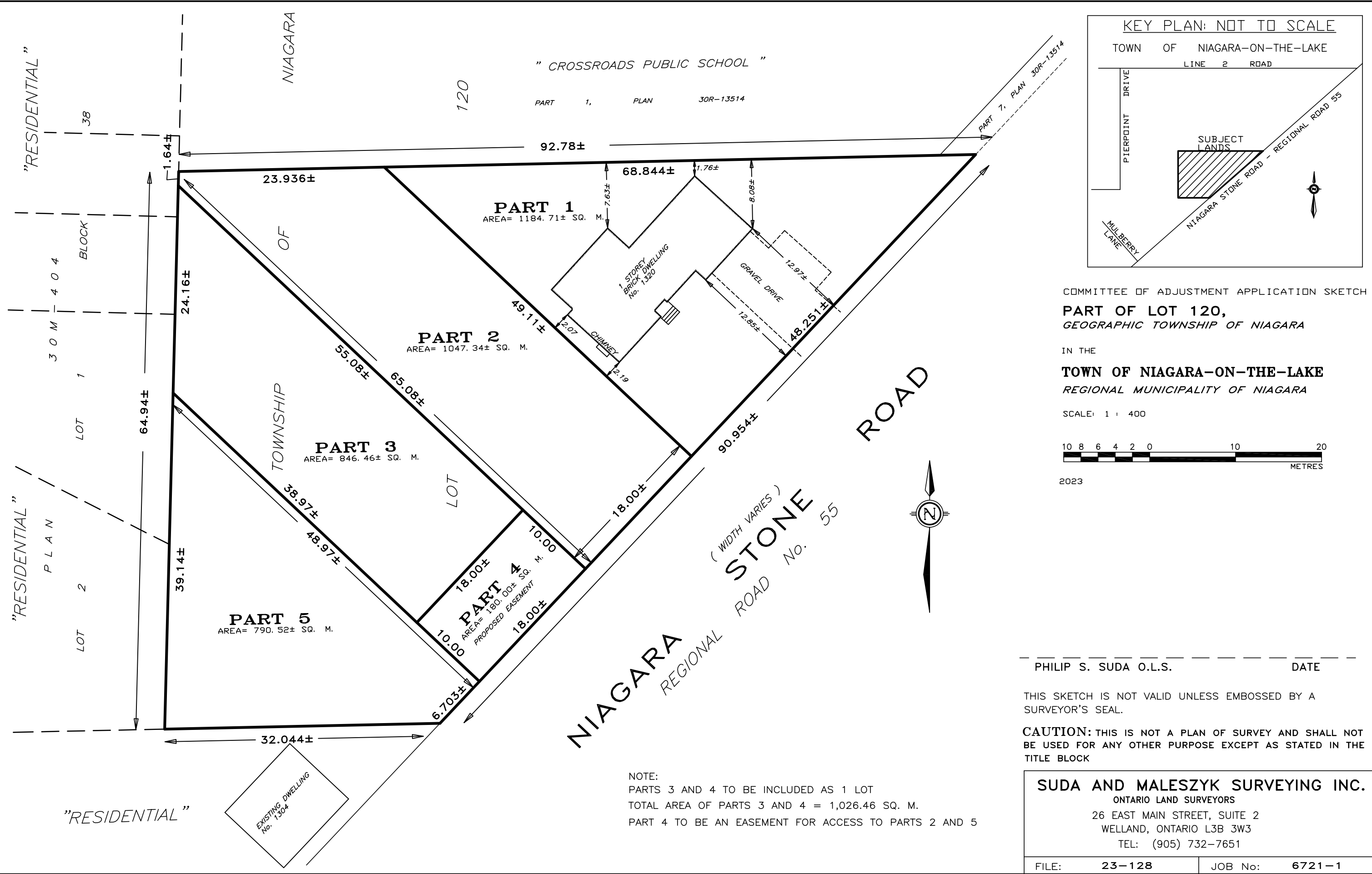


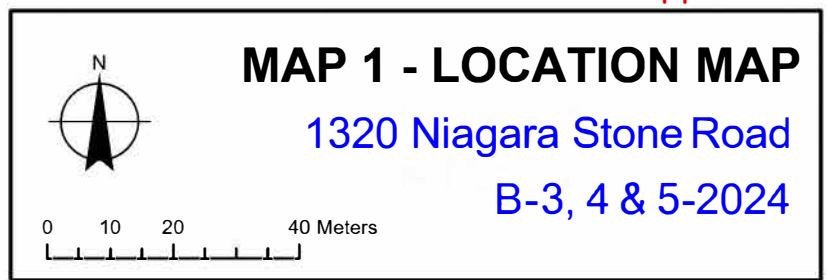
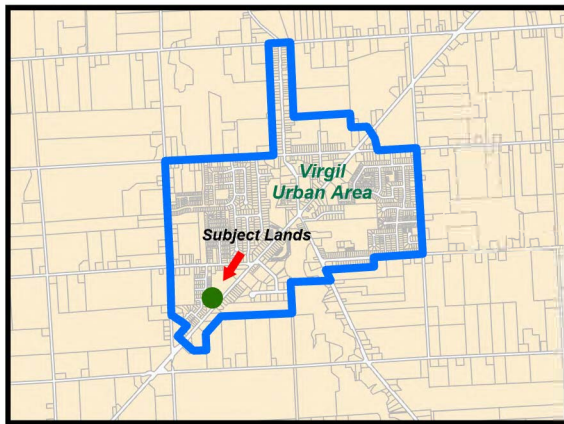
Victoria Nikoltcheva
Planner II

Reviewed by:



Aimee Alderman, MCIP, RPP
Manager of Planning





1:1,200



Explanation of the Purpose and Effect of
By-law 4316FM-24

The subject lands are described as 1320 Niagara Stone Road, Niagara-on-the-Lake, more particularly described as Part of Township Lot 120 Niagara as in RO661362, Town of Niagara-on-the-Lake, Regional Municipality of Niagara.

Purpose

The purpose of this By-law is to rezone the subject lands to permit the creation of three (3) new residential lots for future single-detached dwellings and retain one (1) lot for an existing single-detached dwelling.

Effect

The effect of this By-law is to rezone the subject lands from “Virgil Community Zoning District – Residential Development (RD) Zone” to “Virgil Community Zoning District – Residential (R1) Zone” and “Virgil Community Zoning District - Residential [R1-46(a)], [R1-46(b)], and [R1-46(c)] Site Specific Zones” with site-specific provisions pertaining to lot frontage and driveway setbacks.

<i>Owner:</i>	Marion Dorothy Homer (Jack Homer Executor)
<i>File Number:</i>	ZBA-01-2024
<i>Report Numbers:</i>	CDS-24-077
<i>Assessment Roll Number:</i>	262702001428100

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 4316FM-24**

1320 Niagara Stone Road, Roll #: 262702001428100

A BY-LAW TO AMEND BY-LAW NO. 4316-09, AS AMENDED, ENTITLED
A BY-LAW TO REGULATE THE USE OF LANDS AND THE ERECTION,
USE, BULK, HEIGHT, LOCATION, AND SPACING OF BUILDINGS AND
STRUCTURES WITHIN THE TOWN OF NIAGARA-ON-THE-LAKE.

WHEREAS the Town of Niagara-on-the-Lake Council is empowered to enact this By-law by virtue of the provisions of Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

AND WHEREAS this By-law conforms to the Town of Niagara-on-the-Lake Official Plan.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE enacts as follows:

1. Schedule "A-14" of By-law 4316-09, as amended, is further amended by changing the zoning of the subject lands identified on Map 'A' attached to and forming part of this By-law from "Virgil Community Zoning District – Residential Development (RD) Zone" to "Virgil Community Zoning District – Residential (R1) Zone" and "Virgil Community Zoning District - Residential [R1-46(a)], [R1-46(b)], and [R1-46(c)] Site Specific Zones."
2. That Subsection 10.12 Site Specific Exceptions of By-law 4316-09, as amended, is hereby further amended by adding the following section:

10.12.46 1320 Niagara Stone Road – See Schedule 'A-14' [R1-46(a)], [R1-46(b)] and [R1-46(c)]

10.12.46.1 R1-46(a), R1-46(b) and R1-46(c) Parking Space Requirements, Additional Provisions

In lieu of the corresponding provisions of Subsection 6.40, and in addition to such provisions, the following provision shall apply to the subject lands identified as R1-46(a), R1-46(b) and R1-46(c) on Schedule 'A-14':

(j)	Minimum driveway setback from an interior property line for a shared access	0.0 metres
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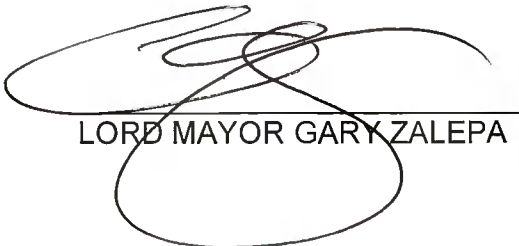
10.12.46.2 R1-46(c) Zone Requirements

In lieu of the corresponding provisions of Subsection 10.1.2, and in addition to such provisions, the following provision shall apply to the subject lands identified as R1-46(c) on Schedule 'A-14':

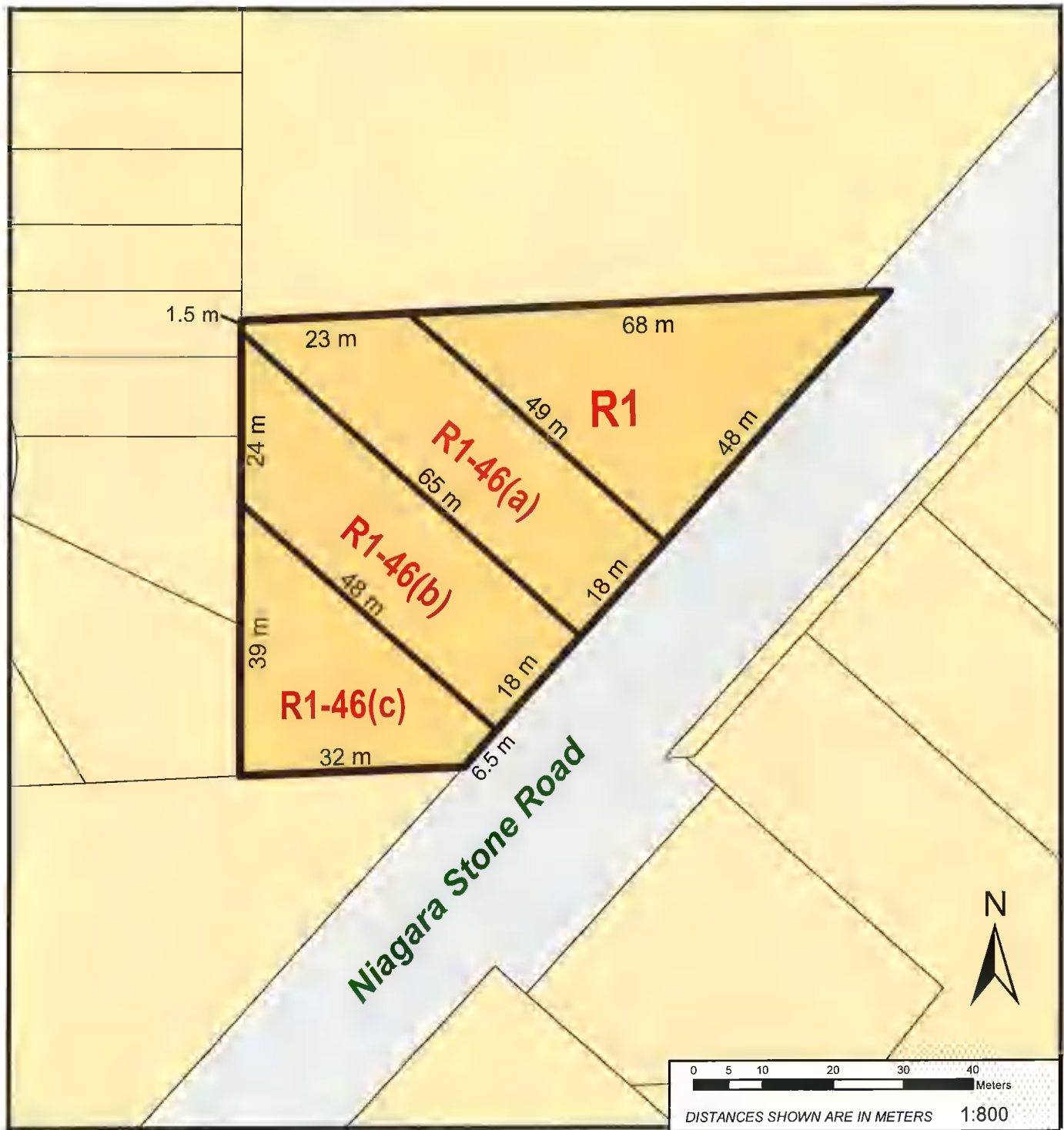
(a)	Minimum lot frontage	6.7 metres
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3. All other provisions of Zoning By-law 4316-09, as amended, shall continue to apply to the subject lands.
4. That the effective date of this By-law shall be the date of final passage thereof.

READ A FIRST, SECOND AND THIRD TIME THIS 28TH DAY OF MAY, 2024.


LORD MAYOR GARY ZALEPA


TOWN CLERK GRANT BIVOL



MAP 'A' ATTACHED TO BY-LAW 4316FM-24, BEING AN AMENDMENT TO SCHEDULE "A-14" OF ZONING BY-LAW 4316-09, AS AMENDED, OF THE TOWN OF NIAGARA-ON-THE-LAKE ON THIS 28TH DAY OF MAY, 2024.

LORD MAYOR
GARY ZALEPA

TOWN CLERK
GRANT BIVOL



Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: CDS-24-117 **COMMITTEE DATE:** 2024-07-18
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Consent Application B-06/24 – 15608 Niagara River Parkway

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-06/24 for 15608 Niagara River Parkway be approved, subject to the recommended conditions:
 - 1.1.1 That the owner/applicant provides a legal description of Part 1, acceptable to the Registrar, together with one (1) digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Town, for use in the issuance of the Certificate of Consent;
 - 1.1.2 That pursuant to *Planning Act* Section 50 (12), it is hereby stipulated that Section 50 (3) or 50 (5) shall apply to any subsequent conveyance of, or other transaction involving the identical subject parcel of land (Part 1); that Part 1 is merged in title with Part 3 and they become one parcel of land; and that the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Town, that Part 1 shall be conveyed to the owner of Part 3 and to prepare and register application to consolidate the lands and forward a copy of receipted application within two years of issuance of the consent certificate;
 - 1.1.3 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Town, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 1, has been carried out, the documentation to be provided within two years of issuance of the consent certificate;
 - 1.1.4 That the owner/applicant obtains final approval for Zoning By-law Amendment Application ZBA-07-2024 to rezone Part 1 to an existing "Rural Residential (RR) Site-Specific Zone" which applies to Part 3 (Zoning By-law No. 500XC-18), and to address a setback deficiency to an existing building located on Part 2, to the satisfaction of the Director of Community and Development Services; and,
 - 1.1.5 That the owner/applicant obtains final approval for Site Plan Approval

Application SP-05-2024 to amend the existing Site Plan Agreement (SPA-141-23) which applies to Part 2, to reflect the new boundary lot lines, to the satisfaction of the Director of Community and Development Services.

2. EXECUTIVE SUMMARY

Staff have received a Consent Application submitted under Section 53(12) of the *Planning Act*, proposing a minor boundary adjustment by conveying a portion of 15608 Niagara River Parkway (1,341.8 square meters/0.33 acres) identified as Part 1, to 15618 Niagara River Parkway (Part 3). Town Staff have reviewed the application and consider the application to meet applicable planning legislation and policies, subject to the recommended conditions.

3. PURPOSE

Consent Application B-06/24 proposes a minor boundary adjustment by severing Part 1 from Part 2 (15608 Niagara River Parkway) and merging Part 1 with Part 3 (15618 Niagara River Parkway). Part 2 would be retained for continued agricultural purposes being the estate winery (Reif Estate Winery), and Part 1 would provide additional outdoor amenity space to support the existing residential use on Part 3. The boundary adjustment is being requested to change ownership of the agricultural lands.

The application drawing is attached as **Appendix I** to this report.

4. BACKGROUND

4.1 Site Description and Surrounding Land Uses

The subject lands are comprised of two separate parcels that are located to the south of Line 2 Road, east of Concession 1 Road and west of the Niagara River Parkway within the agricultural area. The lands are municipally known as 15608 Niagara River Parkway and 15618 Niagara River Parkway. The location of the subject lands is shown in **Appendix II**.

Part 1 is a vacant irregularly shaped parcel that has an area of 1,341.8 square metres with no street frontage. There are no active agricultural uses on Part 1.

Part 2 (15608 Niagara River Parkway) has an area of 323,667 square metres, a frontage of 101.83 metres on Niagara River Parkway, and contains an estate winery (Reif Estate Winery) with several associated buildings to support the operations at the winery, as well as a parking lot and grape vines. Part 2 is serviced by municipal water and a private septic system.

Part 3 (15618 Niagara River Parkway) has an area of 6,124.9 square metres, a frontage of 83.8 metres on Niagara River Parkway and contains a two-storey single-detached dwelling and a tennis court. The dwelling is serviced by municipal water and a private septic system.

The surrounding lands include agricultural and rural residential uses.

4.2 Concurrent Applications

Zoning By-law Amendment Application ZBA-07-2024 is made to rezone Part 1 to an existing "Rural Residential (RR) Site-Specific Zone," enacted through By-law No. 500XC-18, which applies to Part 3. The application also addresses a setback deficiency to an existing building

located on 15608 Niagara River Parkway as a result of the boundary adjustment, given that a 15 metre setback is required and only a 12 metre setback would be provided.

Site Plan Approval Application SP-05-2024 is made to amend the existing Site Plan Agreement (SPA-141-23) which applies to Part 2, to reflect the new boundary lot lines.

5. DISCUSSION / ANALYSIS

Section 3(5) of the *Planning Act, R.S.O. 1990, c. P.13* states that a decision of Council, in respect to any planning matter, shall be consistent with the Provincial Policy Statement and conform with the Provincial Plans.

Section 53(12) of the *Planning Act* states that Council, in determining whether a provisional consent is to be given, shall have regard to the matters under Section 51(24), and that conditions of consent may be imposed as set out in Sections 51(25), 51(26) and 51.1.

The Provincial Policy Statement (PPS) (2020) designates the subject lands as being within a "Prime Agricultural Area." The Greenbelt Plan (2017) designates the subject lands within "Protected Countryside," and more specifically, a "Specialty Crop Area (Niagara Peninsula Tender Fruit and Grape Area)".

The subject lands are designated "Specialty Crop Area" in the Niagara Official Plan (2022), and "Agricultural" in the Town's Official Plan (2017 consolidation, as amended).

The PPS permits minor boundary adjustments that do not result in the creation of a new lot. The Greenbelt Plan and Niagara Official Plan (NOP) also permit minor boundary adjustments provided that a separate lot for a residential dwelling is not created and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.

The Town Official Plan permits minor boundary adjustments where the boundary adjustment is minor or land is being added to adjoining lands that contain an existing farm operation and the retained land is large enough to support a potentially viable farm operation, and where a separate lot is not being created for a residential dwelling.

Town Official Plan policies in Section 21.2 (Consent Policies) require that proposed new lot lines, wherever possible, shall avoid creating irregular boundaries for the parcel in question or that remaining. Where lands are located within the Agricultural designation, every attempt shall be made to avoid creating a lot pattern which would make it difficult to farm.

The Consent application will not result in the creation of a new lot. Part 1 would be severed from Part 2 and would merge with Part 3. The newly created lots would continue to be used for rural residential and agricultural purposes. No fragmentation of any key natural heritage or key hydrologic features will occur as a result of the boundary adjustment.

The boundary adjustments can be considered minor in terms of area and impact, and they comply with the consent policies and agricultural objectives as set out in the Official Plan. The proposed boundary adjustments will not affect the ability to farm the subject lands, now or in

the future. Part 1 is not currently being farmed or used by the estate winery. As such, no farmland will be taken out of production. The boundary adjustment will have the effect of correcting irregular lot lines that currently exist for Part 2.

Town Staff have reviewed the application and consider the application to meet applicable planning legislation and policies, subject to the recommended conditions.

5.1 Town, Agency and Public Comments

The application was circulated to all appropriate Town Departments and external agencies, and public notice of the application was provided as required by the *Planning Act*. The following responses were received:

5.1.1 Town Departments

Building – No objection.

Finance – No objection.

Fire & Emergency Services – No objection.

Heritage – No objection.

Operations – No objection.

5.1.2 Agencies

Enbridge Gas – No objection.

Niagara Region – No objection.

5.1.3 Public

No public comments were received at the time this report was prepared.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

The Committee may approve, refuse or modify the requested Consents and/or conditions.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

Not applicable.

10. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the applications, notice of the

decision will be given as set out in the *Planning Act*. The decision of the Committee of Adjustment is subject to a 20-day appeal period following the notice of the Committee's decision. If no appeals are received during the appeal period, the decision is final.

Changes to provincial legislation have been made by way of Bill 23 and third-party appeals from private property owners are no longer permitted.

11. CONCLUSION

Community and Development Services Staff recommend approval of Consent Application B-06/24 for 15608 Niagara River Parkway, subject to the recommended conditions, as the application meets *Planning Act* requirements, is consistent with the Provincial Policy Statement, and conforms with the Greenbelt Plan, Niagara Official Plan and the Town Official Plan.

12. PREVIOUS REPORTS

Not applicable.

13. APPENDICES

- **Appendix I** – Application Drawing
- **Appendix II** – Location Map

Respectfully submitted:

Prepared by:



**John Federici, MCIP, RPP
Senior Planner**

Recommended by:



**Aimee Alderman, MCIP, RPP
Manager of Planning**

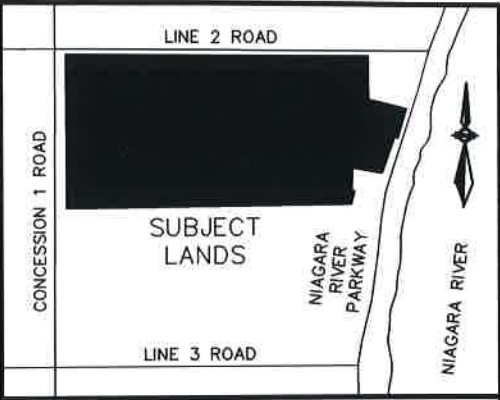
PRELIMINARY SKETCH TO ACCOMPANY AN APPLICATION UNDER THE PLANNING ACT
PART OF TOWNSHIP LOT 19
(GEOGRAPHIC TOWNSHIP OF NIAGARA)
TOWN OF NIAGARA-ON-THE-LAKE
REGIONAL MUNICIPALITY OF NIAGARA



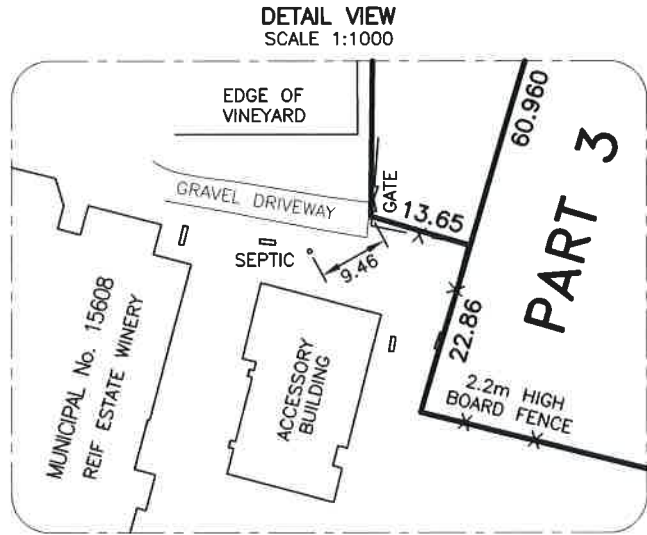
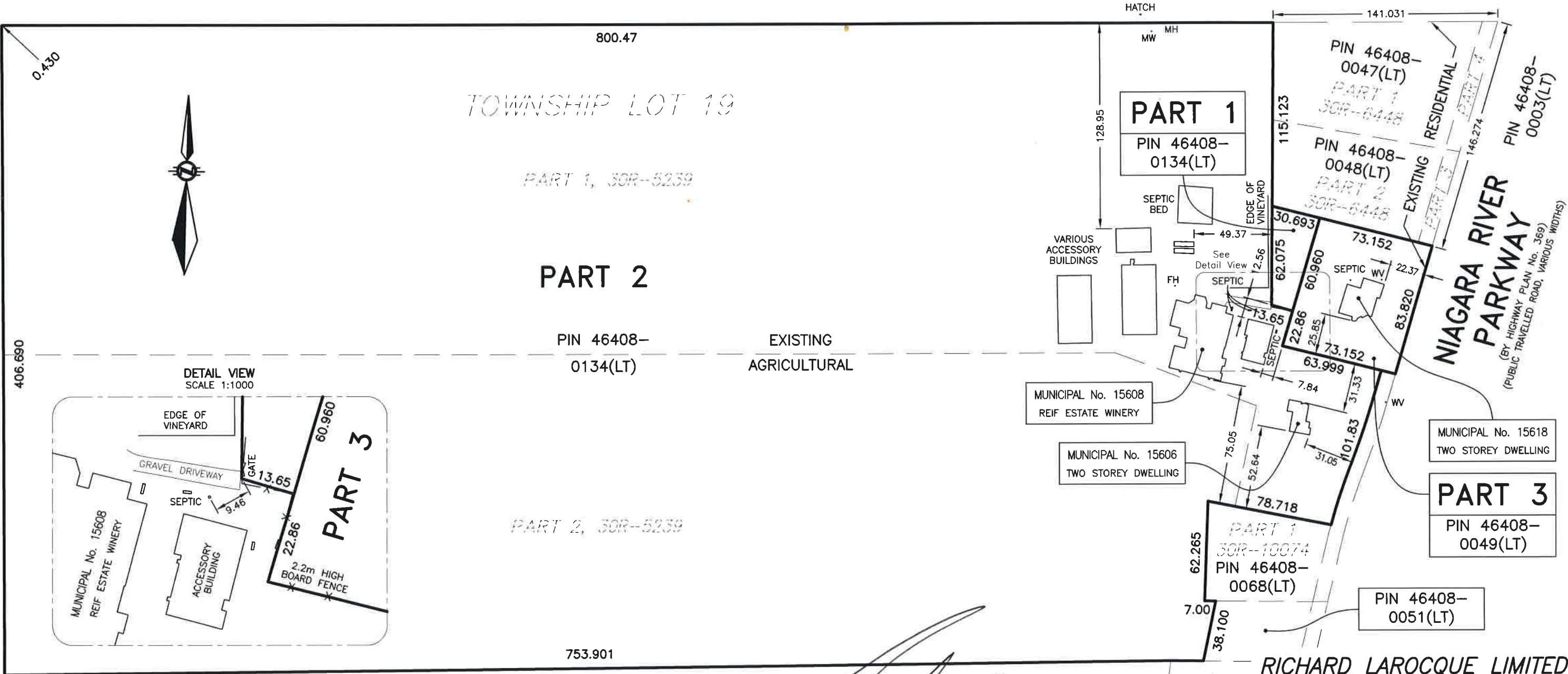
LINE 2 ROAD
(AS LOCALLY KNOWN)
(ROAD ALLOWANCE BETWEEN TOWNSHIP LOTS 19 & 20)
(PUBLIC TRAVELLED ROAD, 20.117 WIDE)
PIN 46408-0045(LT)

AREA SCHEDULE	
DESCRIPTION	AREA (m²)
PART 1	1,341.8
PART 2	323,667.0
PART 3	6,124.9

KEY PLAN
NOT TO SCALE



PIN 46408-0001(LT)
CONCESSION 1 ROAD
(AS LOCALLY KNOWN)
(PUBLIC TRAVELLED ROAD, VARIOUS WIDTHS)



RICHARD LAROCQUE LIMITED
ONTARIO LAND SURVEYORS & CONSULTANTS
12 LYMAN STREET, ST. CATHARINES, ONTARIO
905-688-1413
6385 COLBORNE STREET, NIAGARA FALLS, ONTARIO
905-358-8400
www.larocquegroup.ca

APRIL 17, 2024 BRENT LAROCQUE O.L.S.

THIS SKETCH IS PREPARED FOR AN APPLICATION UNDER THE PLANNING ACT AND ALL DIMENSIONS ARE TO BE CONFIRMED BY SURVEY.

NOTE: THE LOT DIMENSIONS ILLUSTRATED HEREON WERE OBTAINED FROM PLANS AND DOCUMENTS ON FILE AT THE LAND REGISTRY OFFICE

METRIC NOTE DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

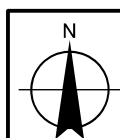
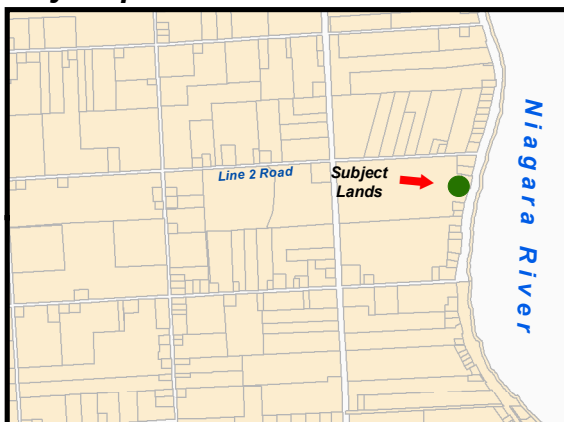
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DRAWN BY:
D.B.

CHECKED BY:
B.L.

DATE:
APR. 17, 2024

FILE: 2021-015A
DWG. FILE: 2021-015A-04

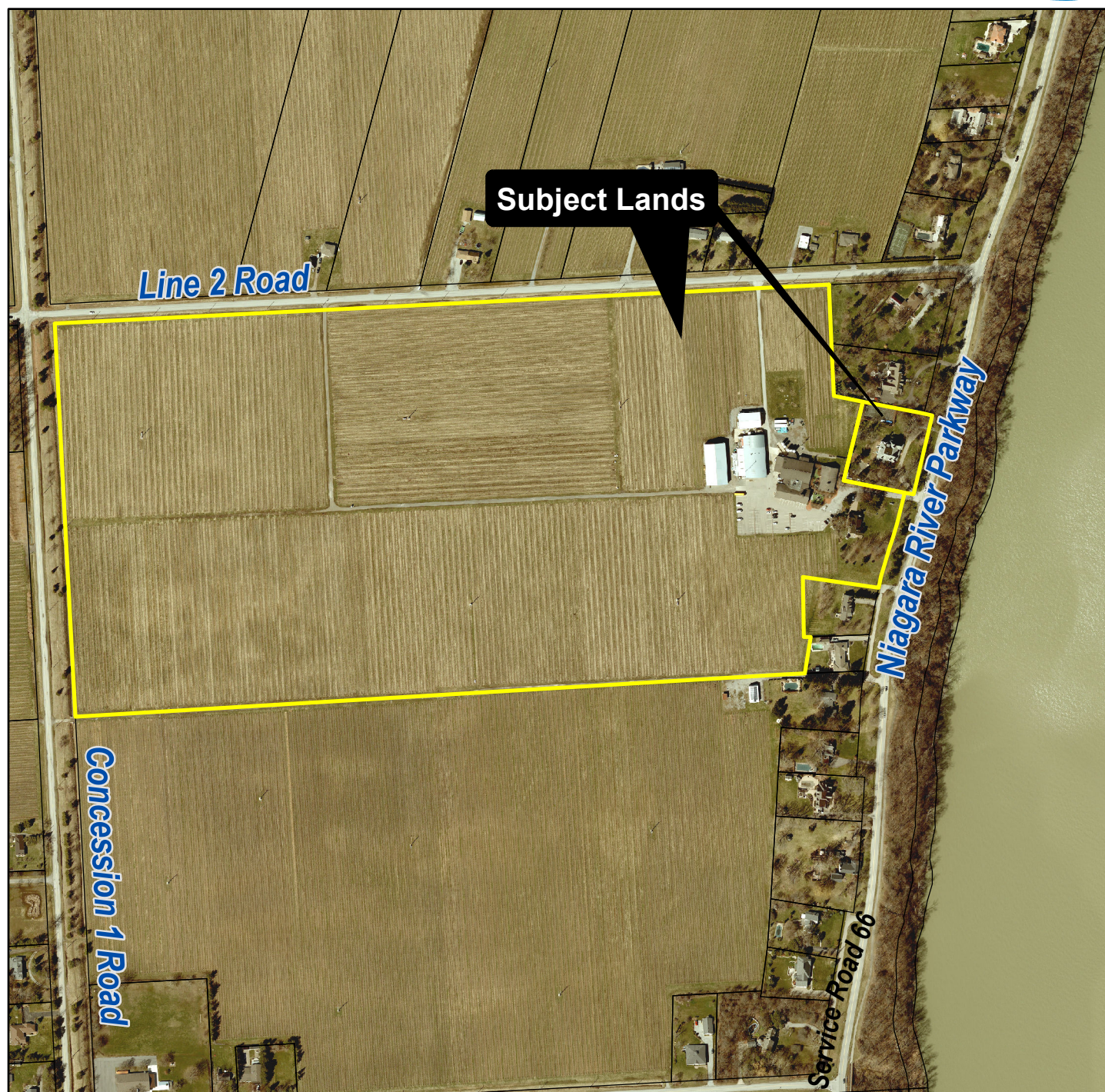


MAP 1 - LOCATION MAP

15608 & 15618 Niagara River Parkway
File: B-06-2024

1:6,000

0 40 80 160 Meters





COMMITTEE OF ADJUSTMENT MEETING MINUTES

June 20, 2024, 6:00 p.m.

Members Present: Steve Bartolini, Angelo Miniaci, Eric Lehtinen, Paul Johnston

Members Absent: Margaret Louter

Staff Present: Natalie Thomson, Aimee Alderman

1. CALL TO ORDER

Chair Eric Lehtinen called the meeting to order and confirmed quorum at 6:00 p.m.

2. ADOPTION OF AGENDA

Moved by: Steve Bartolini

that the agenda be adopted, as presented

APPROVED

3. CONFLICT OF INTEREST

There were no conflicts declared.

4. REQUEST FOR WITHDRAWAL OR ADJOURNMENT

4.1 Deferral Request - 240 Nassau Street, Minor Variance A-08/24

Natalie Thomson explained that the deferral request was due to public notice requirements under the *Planning Act* not being met.

5. APPLICATIONS

5.1 Consent Application B-27/23 – 298 Niven Road Addendum Report, CDS-24-062

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report.

Dave Froese and Al Nickle were present on behalf of the application.

General discussion ensued regarding the following topics:

- History of the property
- Designating dwellings on the property as a "help house"
- Definition of a surplus farm
- Undertaking signed by the owner at building permit stage

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Angelo Miniaci

to accept the recommendation of the staff report that Consent Application B-27/23 for 298 Niven Road be refused.

Decision: RECOMMENDATION REFUSED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment agrees that this application meets Planning Act requirements, is consistent with Provincial Policy, the Niagara Region Official Plan and the Town Official Plan regarding the severance applications.

The Chair summarized the decision.

Moved by: Steve Bartolini

to implement conditions for 298 Niven Road, B-27/23 as follows:

1. That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
2. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Town, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 2, has been carried out, the documentation to be provided within two years of issuance

of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;

3. That the owner/applicant obtains final approval of Consent Application B-26/23 for the creation of a right-of-way (Part 3) off of Niven Road for continued access to the agricultural lot (Part 4);
4. That the owner/applicant obtains final approval of a Zoning By-law Amendment to rezone Part 4 to "Agricultural Purposes Only (APO) Site-Specific Zone" to preclude a residential dwelling in perpetuity and permit the use of three farm help houses to the satisfaction of the Director of Community and Development Services;
5. That the owner/applicant contact the Town's Environmental Services Department to establish that there is no interconnection or easement of services between Part 1, Part 2 and combined Parts 3 and 4 of the proposed severance, to the satisfaction of the Town. Where an interconnection exists, such interconnections are to be disconnected and capped at the boundary between the Parts; and
6. That the owner/applicant apply to the Town's Environmental Services Department for the installation of a water service lateral connecting to the Niven Road watermain and wholly fronting Part 2 of the proposed severance.

Decision: RECOMMENDATION ACCEPTED / CONDITIONS APPROVED.

Reasons: The Committee of Adjustment agrees that this application meets Planning Act requirements, is consistent with Provincial Policy, the Niagara Region Official Plan and the Town Official Plan regarding the severance applications.

The Chair summarized the decision.

5.2 Consent Applications B-09/23 & B-10/23 – 501 East and West Line, CDS-24-048

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report and noted staff's proposed removal of two conditions for B-10/23.

Max Fedchyshak (NPG) and Jonathon Dick (property owner) were present on behalf of the application.

General discussion ensued regarding the following topics:

- Existing water services
- Purpose of the easement
- Agricultural versus residential uses

The Chair called on those registered to speak in support or against the proposal. Hendrick Heikoop spoke in objection to the proposal expressing concerns with potential future development along Four Mile Creek Road.

Moved by: Angelo Miniaci

to accept the recommendation of the staff report that Consent Application B-09/23 for 501 East and West Line (Part 2) be approved, subject to the following conditions:

1. That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
2. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 1, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
3. That the owner/applicant enters into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 2, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:

1. That prior to the issuance of a Building Permit for any future accessory structure(s) and/or dwelling, an archaeological assessment will be required for the particular location of development on the property;
2. That all archaeological assessments be completed at the owner/applicants' expense, and that no demolition, grading or other soil disturbances shall take place on the subject property, that are not attributed to the agricultural land use of the lands, prior to the Ministry of Citizenship and Multiculturalism confirming to the Town that all archaeological resources concerns have met licensing and resource conservation requirements, to the satisfaction of the Town;
3. That a copy of all archaeological assessment reports and associated Ministry Compliance Letters are submitted to the Town; and
4. Any agreements of Purchase and Sale of Part 2, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
4. That the Town Operations Department be provided with a copy of the deposited reference plan;
5. That the owner/applicant dedicate a 3.0 metre road widening on East and West Line (approximate, to be confirmed by survey) fronting Parts 1 and 2 of the proposed severance, to the benefit of the Town;
6. That the owner/applicant dedicate a 3.0 metre road widening on Line 1 Road (approximate, to be confirmed by survey) fronting Part 2 of the proposed severance, to the benefit of the Town;
7. That the owner/applicant dedicate a 3.0 metre road widening on Concession 6 Road (approximate, to be confirmed by survey) fronting Part 2 of the proposed severance, to the benefit of the Town; and
8. That a new sewage system is installed on Part 1, to replace the existing compromised septic system servicing the southerly dwelling on this parcel, which meets all Ontario Building Code

requirements. A permit for the new system shall be applied for and obtained from Niagara Region prior to installation.

2. Consent Application B-10/23 for 501 East and West Line (Part 3 & 4) be approved, subject to the following modified conditions:

1. That the owner/applicant provides a legal description of Part 3, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
2. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 3, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
3. That the owner/applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 3 using the direct comparison approach, to the satisfaction of the Manager of Finance; and that the owner/applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 5% of the appraised value of Part 3;
4. That the owner/applicant provides a legal description of Part 4, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
5. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the

transaction, i.e. registration of the easement on Part 4, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;

6. That the owner/applicant enters into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 3, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:
 1. That prior to the issuance of a Building Permit on the lands, an archaeological assessment will be required for the entire property;
 2. That all archaeological assessments be completed at the owner/applicants' expense, and that no development, grading or other soil disturbances shall take place on the subject property prior to the Ministry of Citizenship and Multiculturalism confirming to the Town that all archaeological resources concerns have met licensing and resource conservation requirements, to the satisfaction of the Town;
 3. That a copy of all archaeological assessment reports and associated Ministry Compliance Letters are submitted to the Town; and
 4. Any agreements of Purchase and Sale of Part 3, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
7. That the Town's Operations Department be provided with a copy of the deposited reference plan;
8. That the owner verify to the Town's Environmental Services Department that there is no existing internal wastewater connection between Parts 1 and 3 of the proposed severance. If such connection does exist it must be terminated and capped at the western boundary at Part 3 of the proposed severance;

9. That the Town's Operations Department be provided with a copy of the registered easement (Part 4) in favour of Part 1 of the proposed severance;
10. That the owner/applicant dedicate a 3.0 metre road widening on Four Mile Creek Road (approximate, to be confirmed by survey) fronting Parts 3 and 4 of the proposed severance, to the benefit of the Town;
11. That the owner/applicant obtain approval in the form of a municipal entrance permit from the Town's Operations Department for a new driveway on Part 3 of the proposed severance, including payment of the associated fees. Proposed entrance and existing municipal trees must be shown on submitted plans; and
12. That the owner/applicant verify to the Town's Environmental Services Department that the alignment of the proposed 3.0 metre wide easement (Part 4) is located such that it encompasses the entirety of existing water service connection between the Four Mile Creek Road watermain and the dwelling at 501 East and West Line.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment agrees that this application meets Planning Act requirements, is consistent with Provincial Policy, the Niagara Region Official Plan and the Town Official Plan regarding the severance applications.

The Chair summarized the decision.

5.3 Minor Variance Application A-08/24 - 240 Nassau Street, CDS-24-098

Application deferred to July 18, 2024

5.4 Minor Variance Application A-09/24 – 149 Read Road, CDS-24-093

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report.

David Eqbal (agent) was present on behalf of the application. David explained the purpose of the proposed variance was to add existing storage space to the agricultural market.

The Committee had no questions relating to the application.

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Steve Bartolini

to accept the recommendation of the staff report that Minor Variance Application A-09/24 for 149 Read Road be approved, subject to the following condition:

1. That, prior to the issuance of a building permit, the applicant/owner installs a new septic system on the property to service the proposed development, which meets all Ontario Building Code requirements. A permit for the new system shall be applied for and obtained from Niagara Region prior to installation.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

2. The variance is minor in nature.
3. The variance is appropriate for the development of the land.
4. The general intent and purpose of the Zoning By-law is maintained.
5. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

5.5 Minor Variance Application A-10/24 - 93 River Beach Drive, CDS-24-099

Natalie Thomson summarized the notice and mentioned one public comment was received.

Aimee Alderman summarized the staff report and noted discrepancies with the site plan drawing and on-site conditions. Aimee noted that the

approval of the application would relate to the measurements provided in the site plan.

Jackie Kevill (owner) and Mike Jeffs (Heartscape Niagara) were present on behalf of the application.

General discussion ensued regarding the following topics:

- Existing deck boards not aligning with site plan drawing
- NPCA work permit and safeguards along shoreline
- Deck boards sitting on the armour stone wall to be removed

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Steve Bartolini

to accept the recommendation of the staff report that Minor Variance Application A-10/24 for 93 River Beach Drive be approved.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

1. The variance is minor in nature.
2. The variance is appropriate for the development of the land.
3. The general intent and purpose of the Zoning By-law is maintained.
4. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

5.6 Minor Variance Application A-11/24 – 134 Victoria Street, CDS-24-094

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report.

Eric Beauregard (Upper Canada Consultants) was present on behalf of the application. Eric delivered a brief presentation.

General discussion ensued regarding the following topics:

- Municipal Heritage Committee demo permit
- Recommendation of MHC endorsed by Council
- Rebuilding the existing dwelling using some materials saved from demolition
- Two storey dwelling versus bungalow in regards to lot coverage

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Angelo Miniaci

to accept the recommendation of the staff report that Minor Variance Application A-11/24 for 134 Victoria Street be approved, subject to the following conditions:

1. That the owner/applicant enter into an encroachment agreement with the Town for the stairs fronting Victoria Street. If an encroachment agreement already exists for the subject lands, the owner/applicant is required to forward a copy to Town Staff, to the satisfaction of the Town;
2. That the buildings/structures are demolished to the satisfaction of the Town and that the owner/applicant obtains any required building permit for demolition and that final inspection and closure of the permit is completed to the satisfaction of the Chief Building Official;
3. That no demolition, grading or other soil disturbances shall take place on the subject property prior to the Ministry of Citizenship and Multiculturalism confirming to the Town that all archaeological resources concerns have met licensing and resource conservation requirements, and that a copy of the Ministry letter is submitted to the Town, to the satisfaction of the Town;
4. That the owner/applicant signs and submits the Tree Declaration Form, to the satisfaction of the Town;
5. That the owner/applicant provides a written undertaking confirming that all tree protection measures as outlined in the Tree Preservation Plan, prepared by Colville Consulting Inc,

dated March 28, 2024, will be implemented, to the satisfaction of the Town; and

6. That the owner/applicant submits and obtains approval of permit applications for the proposed tree removals from the Town. If any boundary trees are proposed for removal, the owner/applicant is required to obtain written permission from adjacent landowners for the removal of any boundary trees, to the satisfaction of the Town.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

2. The variance is minor in nature.
3. The variance is appropriate for the development of the land.
4. The general intent and purpose of the Zoning By-law is maintained.
5. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

5.7 Minor Variance Application A-12/24 - 8 Henegan Road, CDS-24-095

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report.

Chelsea Liotta (Upper Canada Consultants) was present on behalf of the application.

General discussion ensued regarding the following topics:

- Existing landscape conditions on site
- Height measurement
- Surrounding property heights

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Paul Johnston

to accept the recommendation of the staff report that Minor Variance Application A-12/24 for 8 Henegan Road be approved.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

1. The variance is minor in nature.
2. The variance is appropriate for the development of the land.
3. The general intent and purpose of the Zoning By-law is maintained.
4. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

6. MINUTES FOR APPROVAL

The May 16, 2024 minutes were approved by unanimous consent.

7. NEW BUSINESS

There was no new business.

8. NEXT MEETING DATE

Thursday, July 18, 2024 at 6:00pm.

9. ADJOURNMENT

The meeting was adjourned at 7:51 pm.