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**COMMITTEE OF ADJUSTMENT**

Thursday, January 16, 2025, 6:00 p.m.

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	<b>Pages</b>
1. CALL TO ORDER	
2. ADOPTION OF AGENDA	
3. CONFLICT OF INTEREST	
4. REQUEST FOR WITHDRAWAL OR ADJOURNMENT	
5. APPLICATIONS	
5.1 Minor Variance Application A-21/24 – 20 Circle Street, CDS-24-181	2
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6. MINUTES FOR APPROVAL	
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8. NEXT MEETING DATE	
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-24-181      **COMMITTEE DATE:** 2025-01-16  
**REPORT TO:** Committee of Adjustment      **DUE IN COUNCIL:** N/A  
**SUBJECT:** Minor Variance Application A-21/24 – 20 Circle Street

## 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-21/24 for 20 Circle Street be approved, subject to the following conditions:
  - 1.1.1 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 Clearance Letter for the Archaeological Assessment titled “*Stage 1 and 2 Archaeological Assessment of 20 Circle Street, Part of Lot D, Registered Plan TP 148, (Formerly in the Geographic Township of Niagara, County of Niagara North), Now in the Town of Niagara-On-the-Lake, Regional Municipality of Niagara, Ontario*” prepared by The Archaeologists Inc. and dated June 17, 2024, is submitted to the Town, to the satisfaction of the Town;
  - 1.1.2 That the owner/applicant submits and obtains approval of permit applications for the proposed tree removals from the Town, and that the owner/applicant implements the recommendations and preservation measures of the Arborist Report, prepared by 7 Oaks, dated July 15, 2024, to the satisfaction of the Town’s Urban Forestry Officer;
  - 1.1.3 That the owner/applicant provides a signed copy of the Town’s Tree Protection Declaration form, to the satisfaction of the Town’s Urban Forestry Officer; and
  - 1.1.4 That the owner/applicant enter into a Development Agreement with the Town to require Urban Design Committee review prior to the issuance of a Building Permit for the dwelling, 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 or their subordinate, to the satisfaction of the Director of Community and Development Services.

## 2. PURPOSE

The applicant is proposing the construction of a new two-storey single-detached dwelling with an attached garage on the subject lands, municipally known as 20 Circle Street. To accommodate the proposal, the following variances have been requested:

1. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 6.25 metres for the proposed covered front porch;
2. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 6.49 metres for the proposed dwelling; and
3. Minimum side yard setback from 1.22 metres, as required in the Zoning By-law, to 0.85 metres for the proposed rear covered portico.

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

## 3. BACKGROUND

### 3.1 Site Description and Surrounding Land Uses

The subject lands are located on the northeast side of Circle Street, west of Palatine Place, 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 436.8 square metres and a curved frontage of 17.5 metres on Circle Street. The subject lands currently contain an existing one-storey single-detached dwelling that is proposed for removal to accommodate the proposed dwelling. Municipal service connections are available for the future dwelling. The surrounding lands are characterized by residential uses.

### 3.2 Tree Removal

To facilitate the development of the property as shown on the application drawings attached as **Appendix I**, a total of four (4) trees on and adjacent to the subject lands are proposed for removal. On November 8, 2024, a formal request to defer the application was received from the applicant in order to address the proposed tree removal on the neighbouring property at 18 Circle Street. On December 17, 2024, the Town received a written undertaking from the applicant that obtained acknowledgement and consent from the owner at 18 Circle Street, to remove trees D and E on the submitted Tree Preservation Plan, attached as **Appendix III**. The removal of the trees is subject to the issuance of tree permits from the Town.

## 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 reduced front yard and side yard setbacks are considered minor, as sufficient separation remains between the proposed dwelling and the property lines. The requested front yard setbacks bring the property more into conformity with the intent of the Zoning By-law, as the previous dwelling had a front yard setback of approximately 1.14 metres. The front yard setbacks have been split into two different provisions to ensure that the proposed covered porch projects beyond the attached garage and overall dwelling façade. The front yard

setbacks for dwellings on Circle Street vary, ranging from approximately 0 metres to 18 metres.

The requested side yard setback pertains solely to the rear covered portico, a covered outdoor amenity space; the rest of the dwelling meets the minimum side yard setback of 1.22 metres on either side. While the excavation of the dwelling would impact the neighbouring trees at 18 Circle Street, the adjacent landowner has agreed to the removal of these trees to facilitate the development on the subject lands. The reduced side yard setback is not anticipated to pose adverse impacts to the neighbouring property, as many dwellings surrounding the subject lands are in legal-non conforming states with structures and dwellings that extend into the required side yard setbacks, with no known nuisances or complaints reported to-date.

The requested variances would facilitate the construction of a single-detached dwelling that maintains comparable setbacks as other dwellings in the immediate area, and they are not anticipated to result in negative impacts to surrounding properties or the overall streetscape character of the neighbourhood. 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 requested variances would facilitate the construction of a single-detached dwelling with a front yard setback that is more in conformity with the Zoning By-law than the existing dwelling. While the front yard setback is proposed to be reduced to accommodate the future dwelling, it maintains substantial separation between the dwelling façade and Circle Street.

The proposed side yard setback is considered appropriate, as it only relates to an outdoor covered amenity area. The remaining side yard setbacks for the proposed dwelling exceed the minimum side yard setback requirement, providing for appropriate separation between the dwelling and neighbouring properties.

Staff note that the existing dwelling on the subject lands is in poor condition and, therefore, the construction of a new single-detached dwelling is appropriate for the use of the residentially zoned lands.

Staff consider the requested variances to be desirable and appropriate for the development of the lands.

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

The subject lands are zoned “Established Residential (ER2) Zone” in Zoning By-law 4316-09 (as amended). A single-detached dwelling is a permitted use.

The proposed dwelling remains sufficiently setback from all property lines, maintains the permitted lot coverage and height, and would further contribute to the streetscape and public realm of the neighbourhood. Further, the proposed building footprint conforms more to the Zoning By-law than the existing dwelling, which is currently situated 1.14 metres from the frontage of the property. The proposed front yard setbacks are increased by 5.11 metres for the front porch and 5.35 metres for the dwelling façade in comparison to the existing setback,

and would allow for appropriate distance between the dwelling and the boulevard. This separation between the private and public realm is consistent with other dwellings along Circle Street. The requested side yard setback maintains sufficient distance from the neighbouring property and is not anticipated to pose impacts to the neighbour with respect to privacy, shadowing and drainage. The reduced side yard setback remains large enough for continued access and maintenance of the rear yard.

The existing driveway currently has a 0.0 metre setback from the interior property line. Through the proposal, the limits of the driveway boundary will be revised to continue to accommodate a 6-metre-wide driveway, while maintaining the minimum required 1.0 metre setback from the interior lot line, in accordance with the Zoning By-law.

As a result, the requested variances maintain 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 “Low Density Residential” in the Town’s Official Plan (2017 consolidation, as amended). Single-detached dwellings are permitted uses in 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 Official Plan also outlines the following urban design guidelines related to residential infill in Old Town:

- Infill and intensification sites should match the average pre-established building setback of adjacent buildings within the block face.
- Bulk, mass and scale of new development shall fit the context within which it is located.
- Garages for single, semi and townhouse units shall not exceed 50% of the building façade and shall be setback from the front face of these units.

Subsequent direction through OPA 78 (Development Criteria for Residential Infill in Old Town and Virgil) requires appropriate massing in comparison to the existing neighbourhood, consistent setbacks with surrounding development, limiting garages and driveways as to not dominate the streetscape, minimizing tree loss, and overall compatibility with the area.

The pre-established setbacks of the existing dwellings in the area vary throughout the neighbourhood. The proposed setbacks maintain consistency with some of the existing dwellings in the immediate area. While the adjacent dwellings are closer to the street than the proposed dwelling on the subject lands, the requested front yard setback variance results in greater conformity with the Zoning By-law and is reflective of the existing front yard setbacks of other dwellings in proximity. The requested side yard setback to one side of the dwelling maintains consistency with other side yard setbacks in the immediate area.

The proposed dwelling maintains the provisions for maximum height and lot coverage in the Zoning By-law, and is consistent with some of the newer builds in the neighbourhood. The proposed attached garage will accommodate one legal parking space and does not result in a garage-dominant façade. The garage width is limited to less than 50% of the dwelling width, and is setback approximately 0.5 metres from the front of the covered porch. The proposed driveway will be less in width than the existing, reducing its width from 6.2 metres to the maximum permitted 6 metre width.

Staff are of the opinion that 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 – Condition requested for the submission of the Ministry Clearance Letter associated with the submitted Stage 1-2 Archaeological Assessment.

Operations – No objections.

Urban Forestry – No objections. Tree permit applications will be required for the proposed tree removals. A summary of fees, replanting requirements and securities will be provided to the applicant through the tree permit process. The owner shall also provide a signed copy of the Town's Tree Protection Declaration form. Conditions are requests to reflect these requirements.

##### 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**

Out of the 12 trees evaluated, five (5) are on the Town's boulevard, two (2) are on the subject lands, and five (5) are on the neighbouring properties. The application proposes to remove the two (2) existing trees on the subject lands, as well as remove two (2) existing trees on neighbouring lands at 18 Circle Street, to facilitate the required excavation for the construction of the proposed dwelling. The landowner at 18 Circle Street has agreed to the removal of the private trees to facilitate the proposed development. In consultation with the applicant and the Town's Urban Forestry Officer, conditions have been recommended to require tree permit applications for the proposed removals.

## **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-21/24, subject to the recommended conditions, 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**

Not applicable.

## **12. APPENDICES**

- Appendix I – Application Drawings
- Appendix II – Location Map
- Appendix III – Tree Preservation Plan

Respectfully submitted:

**Prepared by:**



**Victoria Nikoltcheva  
Senior Planner**

**Reviewed by:**



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

GENERAL NOTES

- Builder and Surveyor to confirm [XXX] difference between FFL and USF before proceeding with excavation. Report discrepancies to the Designer.
- Surveyor is to comply with current subdivision zoning regarding setbacks in laying out the work. Any discrepancies are to be reported to the DESIGNER and the builder immediately.
- The builder shall comply with all current standards for Local Municipal Subdivision Lot Drainage and Grading as they relate to max. & min. slopes for yards, swales & drives and clearances to street furniture and services for driveways.
- The builder shall check and verify all given grade elevations and drainage prior to commencement of construction. Builder shall verify location of existing and proposed utilities prior to commencement of construction.
- Footings to bear on natural undisturbed soil and be a min. of 1.22m below finished grade. Underside of footings shown are taken from architectural plans and may not represent actual footing level.
- All dimensions and grade elevations are shown in metres.
- Unless otherwise indicated, finished floor level is 0.50m above Specified House Grade at entry points to house and provision of 3 risers at entries must be made to gain entry into house. Maintain top of foundation wall min. 0.15m above finished grade.
- Unprotected openings (windows, doors) must be min 1.2m from lot lines. Builder to verify location of all windows relative to lot line to maintain min. setback for unprotected openings.
- These General Notes apply to all drawings for Siting & Grading including siting on individual sheets.
- All front and rear yards shall be graded at a 2% - 5% grade within 6.0m of the dwelling unit.
- Base curb elevation to be checked vs garage slab elevation to ensure adequate driveway grade before constructing garage.
- Downspouts to discharge onto ground via splash pad.

STANDARD NOTES

- ALL WORKING DRAWINGS SUBMITTED TO THE BUILDING DIVISION AS PART OF A BUILDING PERMIT APPLICATION SHALL BE IN CONFORMITY WITH THE APPROVED SITE PLAN DRAWINGS AS APPROVED BY THE DEVELOPMENT SERVICES DIVISION.
- THE OWNER IS RESPONSIBLE FOR ENSURING THAT TREE PROTECTION HOARDING, PLACED AT THE DRIP LINE OF THE TREES, IS MAINTAINED THROUGHOUT ALL PHASES OF DEMOLITION AND CONSTRUCTION IN THE LOCATION AND CONDITION AS APPROVED BY THE PLANNING AND BUILDING DIVISION. NO MATERIALS (I.E. BUILDING MATERIALS, SOIL, CONSTRUCTION VEHICLES, EQUIPMENT, ETC.) MAY BE STOCKPILED WITHIN THE AREA OF HOARDING.
- ALL UTILITY COMPANIES WILL BE NOTIFIED FOR LOCATES PRIOR TO THE INSTALLATION OF THE HOARDING THAT LIES WITHIN THE LIMITS OF THE COB BOULEVARD AREA.
- SHOULD THE INSTALLATION OF BELOW GROUND SERVICES REQUIRE HOARDING TO BE REMOVED, OPEN SPACE STAFF (AT [ ] ) ARE TO BE CONTACTED PRIOR TO THE COMMENCEMENT OF SUCH WORK. SHOULD AN ALTERNATIVE SERVICE ROUTE NOT BE POSSIBLE, STAFF WILL INSPECT AND DOCUMENT THE CONDITION OF THE VEGETATION AND SERVICING INSTALLATION IN ORDER TO MINIMIZE DAMAGE TO THE VEGETATION.
- THE OWNER (OR APPLICANT AS APPLICABLE) WILL BE RESPONSIBLE FOR THE COST OF ANY UTILITIES RELOCATIONS NECESSITATED BY THE SITE PLAN APPROVAL AND BUILDING PERMIT.
- THE EXISTING ON-SITE DRAINAGE PATTERN SHALL BE MAINTAINED.
- GRADES MUST BE MET WITHIN 33% MAXIMUM SLOPE AT THE PROPERTY LINES AND WITHIN THE SITE.
- THE STRUCTURAL DESIGN OF ANY RETAINING WALL OVER 0.60 M (2.00 FT.) IN HEIGHT OR ANY RETAINING WALL LOCATED ON A PROPERTY LINE IS SHOWN ON THE SITE PLAN AND GRADING PLAN AND IS TO BE APPROVED BY THE CONSULTING ENGINEER FOR THE PROJECT.
- THE PORTIONS OF THE DRIVEWAY WITHIN THE MUNICIPAL BOULEVARD WILL BE PAVED BY THE OWNER AT THEIR OWN EXPENSE.
- AT THE ENTRANCES TO THE SITE, THE MUNICIPAL CURB AND SIDEWALK WILL BE CONTINUOUS THROUGH THE DRIVEWAY AND A CURB DEPRESSION WILL BE PROVIDED FOR EACH ENTRANCE.
- ALL PROPOSED CURBING AT THE ENTRANCES TO THE SITE IS TO TERMINATE AT THE PROPERTY LINE OR AT THE MUNICIPAL SIDEWALK.
- CONSTRUCTION MATERIALS ARE NOT TO BE PUT OUT FOR GARBAGE COLLECTION.
- ALL DAMAGED LANDSCAPE AREAS WILL BE REINSTATED WITH TOPSOIL AND SOD FOLLOWING CONSTRUCTION ACTIVITY.
- ANY COB BOULEVARD TREES DAMAGED OR REMOVED ARE TO BE REPLACED WITH MINIMUM 70MM CALIPER DECIDUOUS TREES TO THE SATISFACTION OF THE COB AT THE OWNER'S EXPENSE.
- ALL EXCESS EXCAVATED MATERIALS WILL BE REMOVED FROM THE SITE AT THE OWNER'S EXPENSE.
- THERE ARE NO EXISTING OR PROPOSED EASEMENTS ON THE PROPERTY.

LEGEND

- PROPOSED GRADE HIGH POINT @ PROPERTY LINE
- DIRECTION OF FLOW
- FINISHED FLOOR LEVEL
- TOP OF FOUNDATION WALL
- FINISHED BASEMENT SLAB
- UNDERSIDE OF FOOTINGS
- STREET LIGHT
- HYDRANT
- TRANSFORMER
- BELL PEDESTAL
- CABLE TV PEDESTAL
- CATCH BASIN
- VALVE CHAMBER
- DOWNSPOUT
- COMMUNITY MAILBOX
- WATER SERVICE
- STORM & SANITARY CONNECTION
- EXTERIOR DOOR LOCATION
- SWALE DIRECTION
- STANDARD PLAN
- REVERSE PLAN
- STREET NAME & "STOP" SIGN
- "MAXIMUM SPEED" SIGN
- "DO NOT ENTER" SIGN
- "ONE WAY" SIGN
- "NO PARKING" SIGN
- "CHECKERBOARD" SIGN
- "NO EXIT" SIGN
- HYDRO METER
- GAS METER
- SANITARY MANHOLE
- STORM MANHOLE
- SANITARY PIPE
- STORM PIPE
- WATER PIPE
- HYDRO LINE
- GAS MAIN
- SOUND BARRIER FENCE
- 3/0 AWG TRIPLEX AL COMPT 600V
- XLPEI PVCJ SECONDARY CABLE
- FINISHED GRADE AT TOP OF RETAINING WALL
- FINISHED GRADE AT BOTTOM OF RETAINING WALL

20 CIRCLE STREET, NIAGARA-ON-THE-LAKE, ONTARIO

2 STOREY SINGLE-DETACHED DWELLING

SITE STATISTICS

ZONING	ER2
MINIMUM LOT AREA	AS EXISTING
LOT AREA	436.84 SQM
MINIMUM LOT FRONTAGE	AS EXISTING
LOT FRONTAGE	17.50 M
MINIMUM LOT DEPTH	AS EXISTING
LOT DEPTH	30.56 M

	REQUIRED/ALLOWED	PROVIDED
FRONT YARD SETBACK/ NORTH	7.50 m	6.25 m
REAR YARD SETBACK/ SOUTH	7.50 m	5.25 m
SIDE YARD SETBACK/ EAST	1.22 m	1.30 m
SIDE YARD SETBACK/ WEST	1.22 m	0.85 m

BUILDING HEIGHT	MAX 8.53 m	8.53 m
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COVERAGE BREAKDOWN

DWELLING FOOT PRINT	134.25 SQM (1445.02 SQF)
COVERED PORCH	6.00 SQM (64.58 SQF)
COVERED PORTICO	11.29 SQM (121.51 SQF)
PROPOSED LOT COVERAGE	153.74 SQM (1654.79 SQF) (35.19%)
ALLOWED LOT COVERAGE	174.74 SQM (1880.84 SQF) (40.00%)

MAXIMUM DRIVEWAY	PERMITTED	PROPOSED
	6.00m	6.00m

GROSS FLOOR AREA CALCULATIONS

FIRST FLOOR	135.44 SQM (1457.94 SQF)
GARAGE (-)	25.31 SQM (272.45 SQF)
SECOND FLOOR	137.31 SQM (1477.94 SQF)
TOTAL	247.44 SQM (2663.43 SQF)

GROSS DEMOLITION AREA (EXISTING DWELLING)

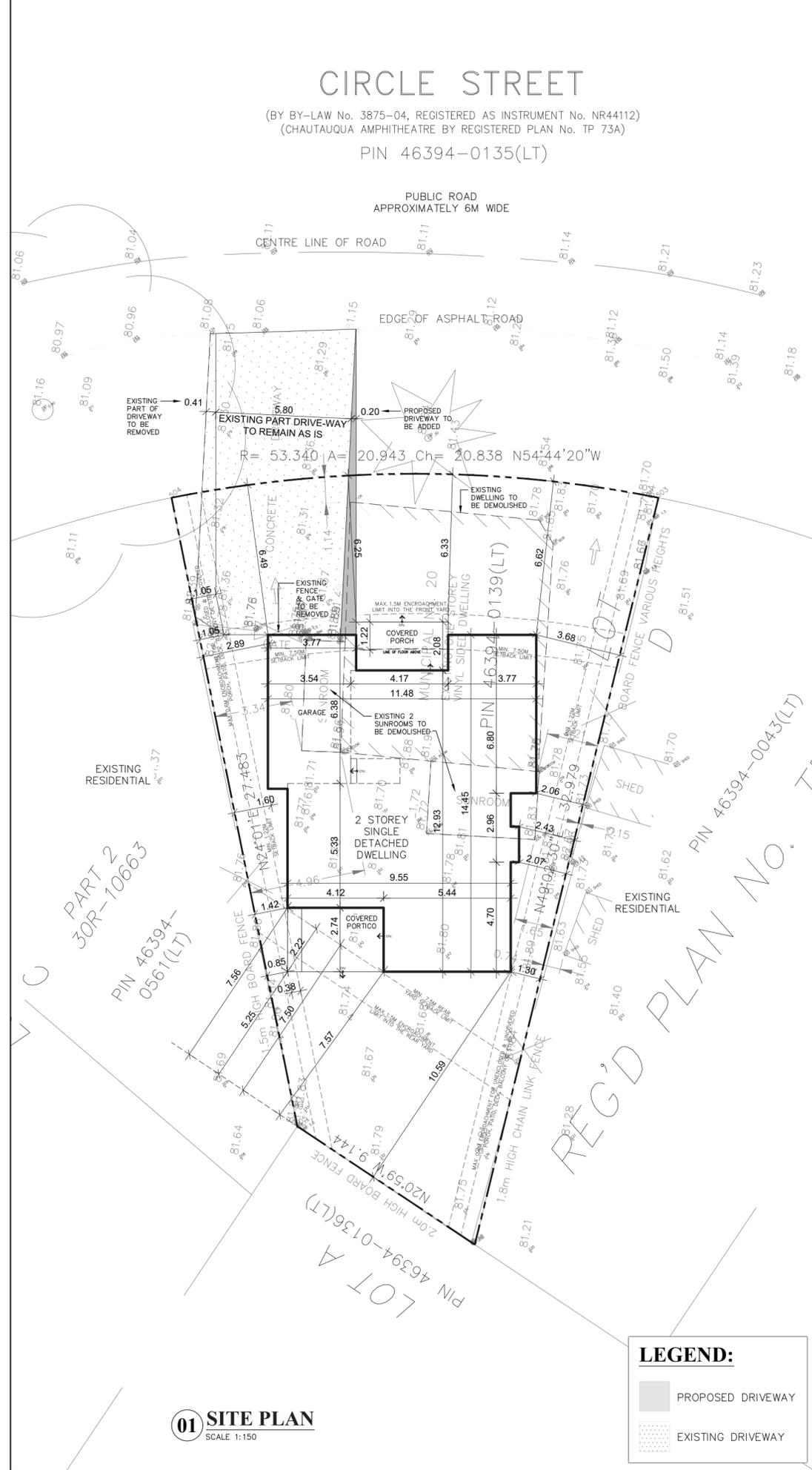
EXISTING DWELLING AREA TO BE DEMOLISHED	92.31 SQM (993.62 SQF)
EXISTING SUNROOMS AREA TO BE DEMOLISHED	21.94 SQM (236.16 SQF)
TOTAL AREA TO BE DEMOLISHED	114.25 SQM (1229.78 SQF)

NOTE:

UTILITY METERS SHALL NOT BE LOCATED ON BUILDING FACADES THAT FACE PUBLIC STREETS AND SHALL BE LOCATED DISCREETLY, AWAY FROM PEDESTRIAN TRAVEL ROUTES AND SCREENED FROM PUBLIC VIEW.

AVERAGE GRADE CALCULATION FOR PROPOSED DWELLING

NO.	G1	G2	G	DISTANCE (D)	D x G	
<b>REAR</b>						
	81.82	81.80	81.81	9.55	781.29	
<b>RIGHT SIDE</b>						
	81.80	81.80	81.80	7.85	642.13	
	81.80	81.90	81.85	6.60	540.21	
<b>FRONT</b>						
	81.90	81.90	81.90	7.71	631.45	
	81.90	81.80	81.85	3.77	308.57	
<b>LEFT SIDE</b>						
	81.80	81.80	81.80	6.80	556.24	
	81.80	81.82	81.81	7.65	625.85	
<b>TOTALS</b>					<b>39.56</b>	<b>3236.95</b>
<b>AVERAGE GRADE =</b>					<b>81.82</b>	



DATE	REF.	DESCRIPTION
JAN. 17, 2024	SD	REVISED DWGS AS PER M.M. PRECONS. MEETING COMMENTS
DEC. 15, 2023	SD	ISSUED FOR MINOR VARIANCE APPLICATION
NOV. 30, 2023	SD	ISSUED FOR PRELIMINARY GRADING

Engineered truss drawings to be submitted to the designer for co-ordination of structure.

The designer has not been retained to carry out general review of the work and assumes no responsibility for the failure of the contractor or sub-contractor to carry out the work in accordance with the documents.

Single pages of the contract documents are not to be read independently of all pages of the contract documents.

The contractor shall verify all dimensions on the contract documents. Any discrepancies are to be reported to the designer prior to the commencement of the work.

Under no circumstances shall the contractor or sub-contractors proceed in uncertainty.

Digital & Hard Copies are issued to the client on the understanding that no changes are to be made to the contract documents without written consent of the designer.

DO NOT SCALE DRAWING

BCIN INFORMATION

The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the BCIN Code of Practice for the Designer.

Required unless design is exempt under Div. C-32.5 of the building code.

SANDEEP POONI	45554
Name	Signature
BCIN	

Registration Information

Required unless design is exempt under Div. C-32.4 of the building code.

SIGNATURE DESIGN GROUP INC.	112796
Firm Name	BCIN



LEGAL DESCRIPTION:

**TOWN OF NIAGARA-ON-THE-LAKE**  
**PART OF LOT D, REG'D PLAN TP 148**

PROJECT:

**COOPER RESIDENCE**  
 20 CIRCLE STREET,  
 NIAGARA-ON-THE-LAKE, ON L0S 1J0

CLIENT:

**PAUL COOPER**  
 20 CIRCLE STREET,  
 NIAGARA-ON-THE-LAKE, ON L0S 1J0

**SITE PLAN**

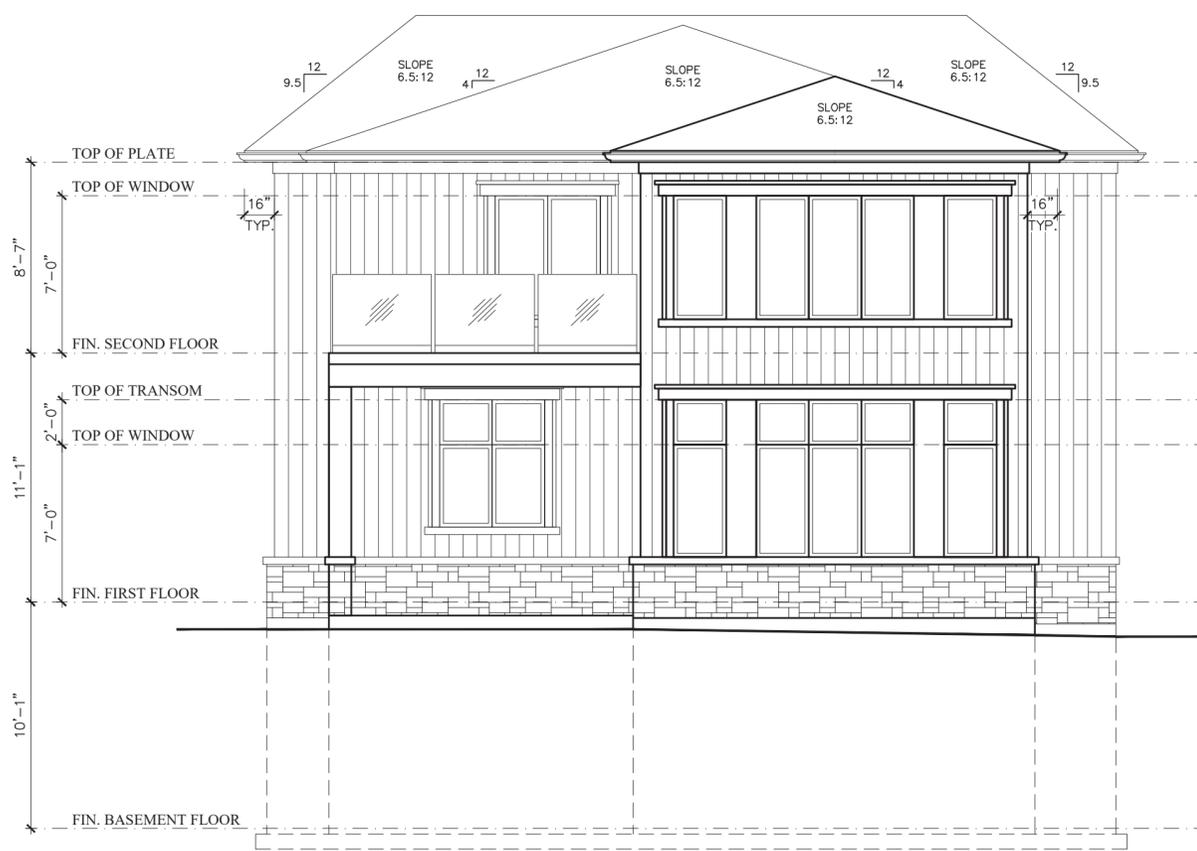
Date	Checked By
SEPT 2023	SP
Job Number	Drawn By
22-1519	SD
Scale	
AS NOTED	
Issued	Sheet Number
	A0

**01 SITE PLAN**  
SCALE 1:150

- LEGEND:**
- PROPOSED DRIVEWAY
  - EXISTING DRIVEWAY



**01 FRONT ELEVATION**  
SCALE 3/16" = 1'-0"



**02 REAR ELEVATION**  
SCALE 3/16" = 1'-0"

- LEGEND:**
- INTERIOR LOAD BEARING PARTITION WALL
  - R.W.L. (RAIN WATER LEADER)
  - CHECK CONCRETE FOR ABOVE DOOR/STAIRS/PORCH/CONC. PIER
  - BASEMENT SLAB - INSULATION

DATE	REF.	DESCRIPTION
JAN. 17, 2024	SD	REVISED DWGS AS PER M.V. PRECONS. MEETING COMMENTS
DEC. 15, 2023	SD	ISSUED FOR MINOR VARIANCE APPLICATION

Engineered truss drawings to be submitted to the designer for co-ordination of structure.

The designer has not been retained to carry out general review of the work and assumes no responsibility for the failure of the contractor or sub-contractor to carry out the work in accordance with the documents.

Single pages of the contract documents are not to be read independently of all pages of the contract documents.

The contractor shall verify all dimensions on the contract documents. Any discrepancies are to be reported to the designer prior to the commencement of the work.

Under no circumstances shall the contractor or sub-contractors proceed in uncertainty.

Digital & Hard Copies are issued to the client on the understanding that no changes are to be made to the contract documents without written consent of the designer.

DO NOT SCALE DRAWING

**BCN INFORMATION**

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 as a designer.

**Qualification Information**  
Required unless design is exempt under Div. C-3.2.5. of the building code.

SANDEEP POONI	Signature	45054
Name	Signature	BCN

**Registration Information**  
Required unless design is exempt under Div. C-3.2.4. of the building code.

SIGNATURE DESIGN GROUP INC.	112796
Firm Name	BCN

32 AMBIANCE COURT  
BRAMPTON, ONTARIO, L6Y 0G8  
(416) 454-6172

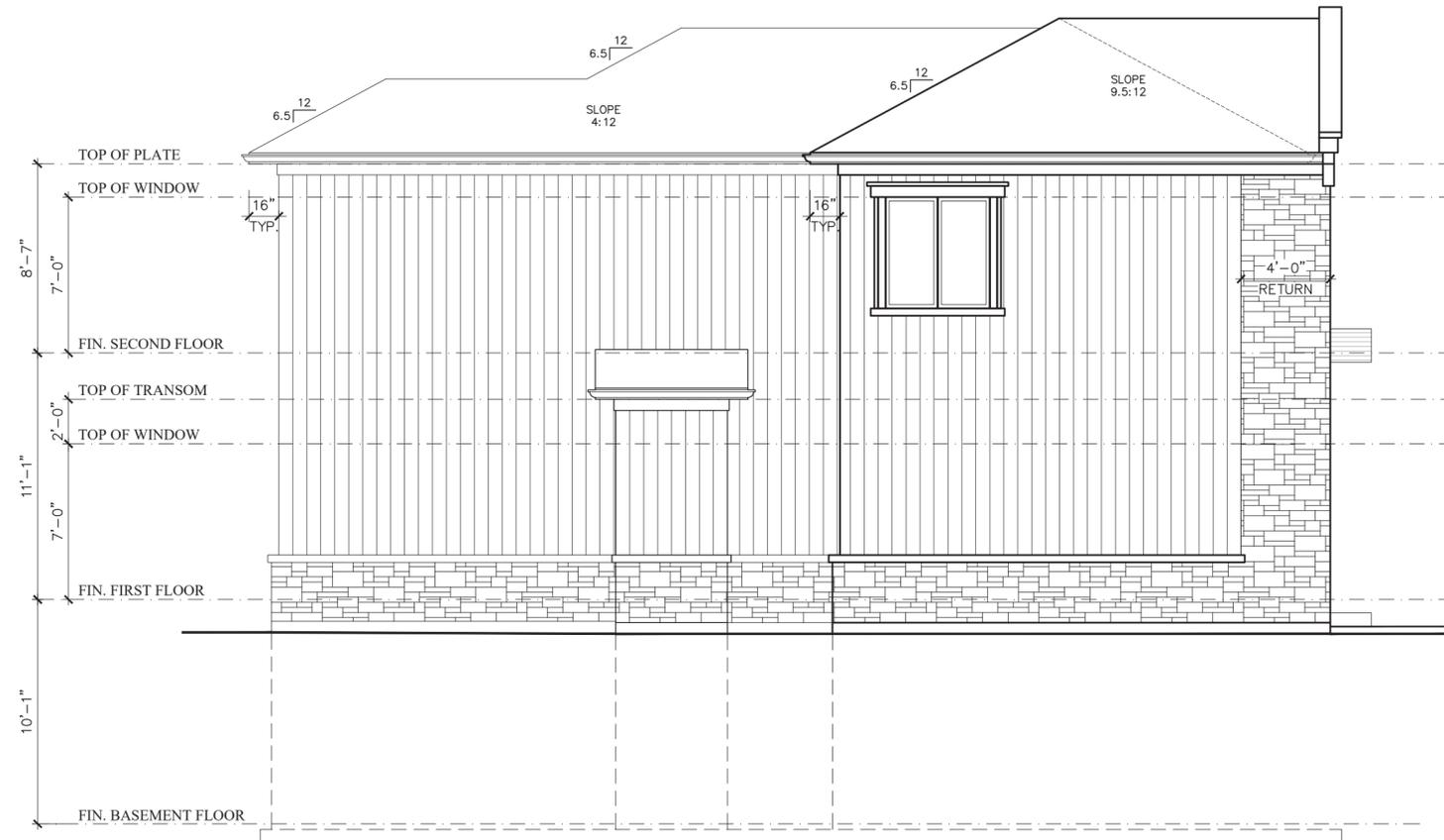
**LEGAL DESCRIPTION:**  
TOWN OF NIAGARA-ON-THE-LAKE  
PART OF LOT D, REG'D  
PLAN TP 148

**PROJECT:**  
**COOPER RESIDENCE**  
20 CIRCLE STREET,  
NIAGARA-ON-THE-LAKE, ON L0S 1J0

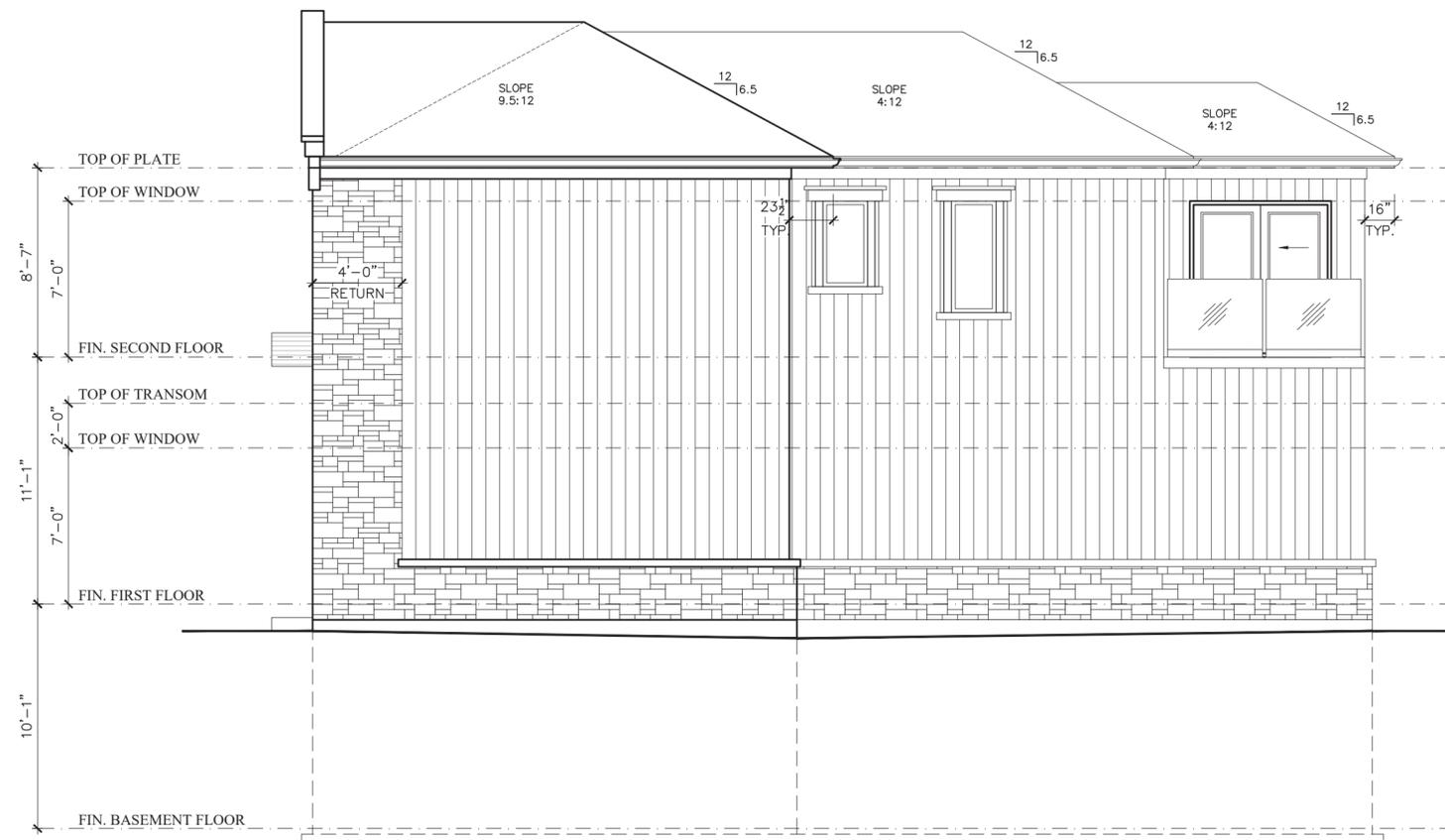
**CLIENT:**  
**PAUL COOPER**  
20 CIRCLE STREET,  
NIAGARA-ON-THE-LAKE, ON L0S 1J0

**FRONT & REAR ELEVATION**

Date	Checked By
SEPT 2023	SP
Job Number	Drawn By
22-1519	SD
Scale	
3/16" = 1'-0"	
Issued	Sheet Number
	A3



**01 LEFT ELEVATION**  
SCALE 3/16" = 1'-0"



**02 RIGHT ELEVATION**  
SCALE 3/16" = 1'-0"

**LEGEND:**

- INTERIOR LOAD BEARING PARTITION WALL
- R.W.L. (RAIN WATER LEADER)
- CHECK CONCRETE FOR ABOVE DOOR/STAIRS/PORCH/CONC. PIER
- BASEMENT SLAB - INSULATION

DATE	REF.	DESCRIPTION
JAN. 17, 2024	SD	REVISED DWGS AS PER M.V. PRECONS. MEETING COMMENTS
DEC. 15, 2023	SD	ISSUED FOR MINOR VARIANCE APPLICATION

Engineered truss drawings to be submitted to the designer for co-ordination of structure.

The designer has not been retained to carry out general review of the work and assumes no responsibility for the failure of the contractor or sub-contractor to carry out the work in accordance with the documents.

Single pages of the contract documents are not to be read independently of all pages of the contract documents.

The contractor shall verify all dimensions on the contract documents. Any discrepancies are to be reported to the designer prior to the commencement of the work.

Under no circumstances shall the contractor or sub-contractors proceed in uncertainty.

Digital & Hard Copies are issued to the client on the understanding that no changes are to be made to the contract documents without written consent of the designer.

DO NOT SCALE DRAWING

**BCN INFORMATION**

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 as a designer.	
Required unless design is exempt under Div. C-3.2.5. of the building code.	
Qualification Information	
SANDEEP POONI	45054
Name	Signature
Registration Information	
Required unless design is exempt under Div. C-3.2.4. of the building code.	
SIGNATURE DESIGN GROUP INC.	112796
Firm Name	BCN

**APCO HOMES**  
Luxury and Quality Redefined  
www.apcohomes.com

**signature design group**  
32 AMBIANCE COURT  
BRAMPTON, ONTARIO, L6Y 0G8  
(416) 454-6172

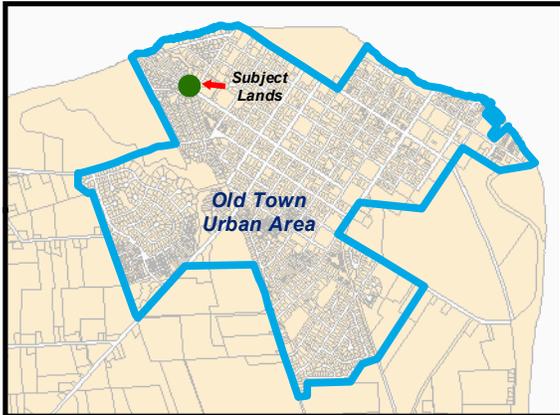
LEGAL DESCRIPTION:  
**TOWN OF NIAGARA-ON-THE-LAKE PART OF LOT D, REG'D PLAN TP 148**

PROJECT:  
**COOPER RESIDENCE**  
20 CIRCLE STREET,  
NIAGARA-ON-THE-LAKE, ON L0S 1J0

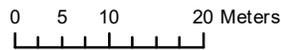
CLIENT:  
**PAUL COOPER**  
20 CIRCLE STREET,  
NIAGARA-ON-THE-LAKE, ON L0S 1J0

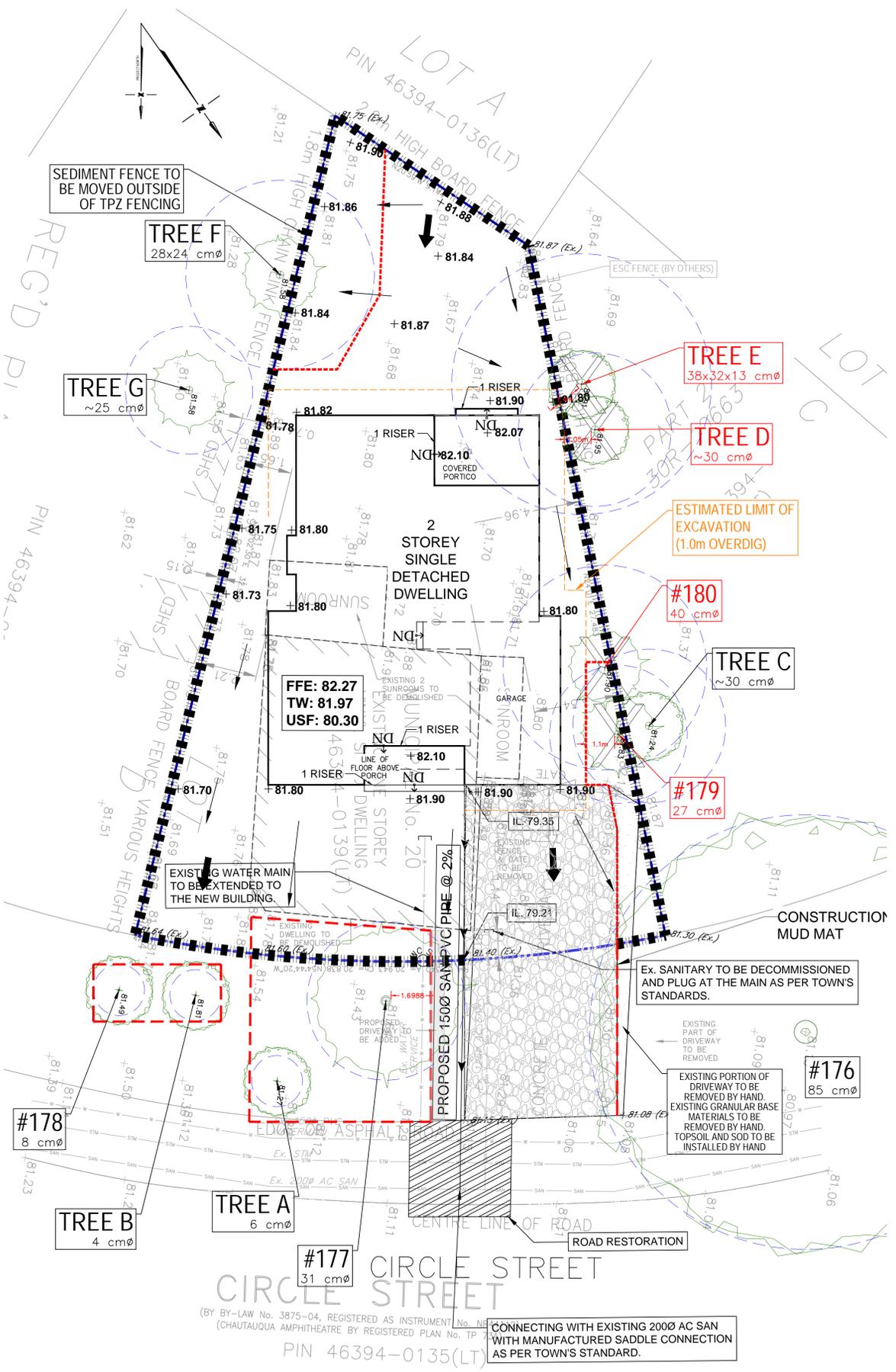
LEFT & RIGHT SIDE ELEVATION	
Date	Checked By
SEPT 2023	SP
Job Number	Drawn By
22-1519	SD
Scale	
3/16" = 1'-0"	
Issued	Sheet Number
	A4

Key Map



  
**MAP 1 - LOCATION MAP**  
20 Circle Street  
File: A-21-2024  
1:800





TREE INVENTORY AND PRESERVATION RECOMMENDATIONS

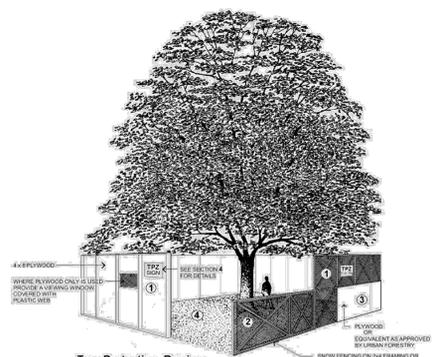
TAG #	COMMON NAME	LATIN BINOMIAL	DBH (cm)	MIN. TPZ (m)	CAT.	CONDITION	% COND. RATING	REMARKS	RECOMMENDATIONS
176	Silver Maple	Acer saccharinum	85	8.5	MT	Poor	40	Large deadwood throughout crown; many broken branches throughout crown; cavity on east side of northern scaffold	PRESERVE & PROTECT Install TPZ fencing
177	Norway Spruce	Picea abies	31	3.1	MT	Very Good	85		PRESERVE & PROTECT Install TPZ fencing Handhydro-vac/air spade excavation required where prescribed, under Arborist supervision. Arborist to prune exposed roots upon uncovering.
Tree A	Scarlet Oak	Quercus coccinea	6	1.0	MT	Very Good	90	Community planting	PRESERVE & PROTECT Install TPZ fencing
Tree B	Scarlet Oak	Quercus coccinea	4	1.0	MT	Very Good	90	Community planting	PRESERVE & PROTECT Install TPZ fencing
178	Norway Maple	Acer platanoides	8	1.0	MT	Good	80	Natural regeneration; girdled by old string	PRESERVE & PROTECT Install TPZ fencing
179	Norway Spruce	Picea abies	27	2.7	SL	Very Good	85		REMOVE Excavation for dwelling foundation will require tree removal
180	Norway Spruce	Picea abies	40	4.0	SL	Very Good	90		REMOVE Excavation for dwelling foundation will require tree removal
Tree C	Manitoba Maple	Acer negundo	-30	3.0	PP	Good	80	Tree not accessed to measure. Tree leaning to west; epicormic branching at base	PRESERVE & PROTECT Install TPZ fencing Handhydro-vac/air spade excavation required where prescribed, under Arborist supervision. Arborist to prune exposed roots upon uncovering.
Tree D	Black Walnut	Juglans nigra	-30	3.0	PP	Good	80	Tree not accessed to measure. Crown imbalanced to the east.	REMOVE Excavation for dwelling foundation will require tree removal
Tree E	Black Walnut	Juglans nigra	38 x 32 x 13	5.1	PP	Good	80	Co-dominant stems with included bark between 38 and 32 cm stems; third smaller stem growing from tree base has suppressed crown and is imbalanced to the north.	REMOVE Excavation for dwelling foundation will require tree removal
Tree F	White Cedar	Thuja occidentalis	28 x 24	3.7	PP	Very Good	90	Co-dominant stems with included bark.	PRESERVE & PROTECT Install TPZ fencing
Tree G	Scots Pine	Pinus sylvestris	-25	2.5	PP	Good	80	Tree not accessed to measure. Good form.	RETAIN

- GENERAL NOTES
- The contractor is responsible to ensure all construction staging areas, stockpiling, construction traffic and vehicular access does not occur within the Tree Protection Zones.
  - Prior to the commencement of any site activity the tree protection barriers specified on this plan must be installed and written notice provided to the Town of Niagara-on-the-Lake.
  - Tree Protection Barriers must remain in effective condition until all site activities are complete.
  - Written notice must be provided and approved by the Town of Niagara-on-the-Lake prior to removal of any Tree Protection Barriers.
  - The Contractor shall verify all dimensions and immediately inform the Consulting Arborist of any discrepancies between the information on the drawings and the actual conditions. Written approval must be obtained prior to proceeding.
  - The Contractor is responsible to examine the site, tree, plant and soil conditions prior to commencing work. Written notification to the Consulting Arborist must be provided of any conditions that may impact the successful tree protection measures outlined on this plan and in the approved Arborist Report.
  - The Contractor will coordinate with all other work/trades that may impact the completion of all work associated with the tree protection measures on this plan and outlines in the approved Arborist Report.

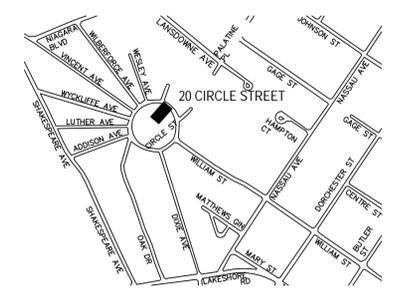
- TREE PROTECTION BARRIERS
- The required Tree Protection Barriers shall be constructed out of 1.2 meter (4 feet) high plywood sheets installed on 2x4 frames. Where plywood fencing creates a restriction to sightlines, orange plastic snow fencing installed on 2x4 frames can be used.
  - Tree Protection Barriers are to be erected prior to the commencement of any demolition, construction or grading activities on the site and are to remain in place for the duration of the development.
  - Tree Protection Barriers shall be maintained erect, in good repair and in effective condition throughout the duration of construction.
  - All supports and bracing used to secure the Tree Protection Barriers should be located outside of the Tree Protection zone to minimize damage to tree roots.
  - No materials or fill may be stored within the Tree Protection Zone.
  - Equipment or vehicles shall not be stored within the Tree Protection Zone.
  - No construction activity, grade changes, surface treatments, flushing of equipment or materials, or excavations of any kind is permitted within the Tree Protection Zone.

- TREE PROTECTION PLAN NOTES
- Prior to site disturbance, the owner must confirm that no migratory birds are making use of the site for nesting. The owner must ensure that works are in conformance with the Migratory Bird Convention Act and that no migratory bird nests will be impacted by the proposed development.
  - It is the applicants' responsibility to discuss potential impacts to trees located near or wholly on adjacent properties or on shared boundary lines with their neighbours. Should such trees be injured to the point of instability or death the applicant may be held responsible through civil action.
  - All existing trees which are to remain shall be protected with fencing erected around the entire perimeter of the Tree Protection Zone as dictated on the Tree Preservation Plan.
  - Areas within the protective fencing shall remain undisturbed and shall not be used for the storage of building materials or equipment.
  - This work shall be completed, to the satisfaction of the Town of Niagara-on-the-Lake, prior to site development. The developer or his/her agent shall take every precaution necessary to prevent damage to trees to be retained.
  - No rigging cables shall be wrapped around or installed in trees; and surplus soil, equipment, debris or materials shall not be placed over root systems of the trees within the protective fencing. No contaminants will be dumped or flushed where feeder roots of trees exist.
  - Where limbs or portions of trees are removed to accommodate construction work, they will be carefully removed by an Arborist qualified in the Province of Ontario or an ISA Certified Arborist.
  - Where root systems of protected trees are exposed directly adjacent to or damaged by construction work, they shall be trimmed nearby by a qualified arborist and the area back filled with appropriate material to prevent desiccation.
  - An ISA certified Arborist or Arborist qualified in the Province of Ontario shall be on site for any work which impacts any tree or Tree Protection Zone.

- SITE PREPARATION
- All trees to be Removed shall be flagged with orange fluorescent tape or spray paint around the entire circumference of the tree. The Consulting Arborist shall sign off on the trees marked for removal on-site.
  - All trees to be Preserved shall be flagged with white tape or spray paint around the entire circumference of the tree. The Consulting Arborist shall sign off on the trees marked for preservation.



- Tree Protection Barriers**
- Tree protection barriers must be constructed with a solid wood frame clad with plywood or approved equivalent. Height of hoarding may be less than 8 ft. to accommodate any branches that may be lower.
  - Tree protection barriers for trees situated on the City road allowance where visibility must be maintained can be 1.2m (4ft.) high and consist of orange plastic web snow fencing on a wood frame made of 2 x 4s.
  - Where some excavate or fill has to be temporarily located near a tree protection barrier, plywood must be used to ensure no material enters the Tree Protection Zone.
  - No construction activity, grade changes, surface treatment or excavations of any kind is permitted within the Tree Protection Zone.
- Note:** Sediment control fencing shall be installed in locations indicated in an Urban Forestry approved Tree Protection Plan. The sediment control fencing must be installed to Ontario Provincial Standards (OPS-219.139) heavy duty silt fence barrier.



KEY PLAN NOT TO SCALE  
CONSULTING ARBORIST

- LEGEND
- EXISTING DECIDUOUS TREE
  - EXISTING CONIFEROUS TREE
  - #1229 29 cm - TREE TAG NUMBER & DIAMETER MEASUREMENT
  - MINIMUM RECOMMENDED TREE PROTECTION DISTANCE
  - TREE TO BE REMOVED
  - HAND EXCAVATION AREA
  - TREE PROTECTION FENCING (SOLID BOARD HOARDING)
  - TREE PROTECTION FENCING (SNOW FENCE CLAD HOARDING)

REV #	REVISION	DATE

CLIENT  
APCO HOMES

PROJECT  
PROPOSED RESIDENTIAL REDEVELOPMENT  
20 CIRCLE STREET  
NIAGARA-ON-THE-LAKE, ONTARIO

TITLE  
TREE PRESERVATION PLAN

DATE: JUNE 17, 2024  
PROJECT NO.: 2024-1009  
DRAWN BY: LAS  
SCALE: 1:100  
PAGE: 1 OF 1  
DRAWING NO. PROJECT NORTH

THIS PLAN IS TO BE READ IN CONJUNCTION WITH THE ARBORIST REPORT AND TREE PRESERVATION PLAN AS PREPARED BY 7 OAKS TREE CARE & URBAN FORESTRY CONSULTANTS INC.





## 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-25-018 **COMMITTEE DATE:** 2025-01-16  
**REPORT TO:** Committee of Adjustment **DUE IN COUNCIL:** N/A  
**SUBJECT:** Consent Applications B-14/24 & B-15/24 – Firelane 13B Road (Parts 2 & 3)

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-14/24 for Firelane 13B Road (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 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 2); that Part 2 is merged in title with Part 4 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 2 shall be conveyed to the owner of Part 4 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 2, has been carried out, the documentation to be provided within two years of issuance of the consent certificate;
  - 1.1.4 That the Town's Operations Department be provided with a copy of the deposited reference plan;
  - 1.1.5 That the owner/applicant obtains final approval through a *Planning Act* application for Part 1 to recognize any zoning deficiencies resulting from the conveyance of Part 2 to Part 4, to the satisfaction of the Director of Community and Development Services; and
  - 1.1.6 That the owner/applicant obtains final approval through a *Planning Act* application

for lands known municipally as 10 Firelane 13B Road (Parts 2 and 4), to recognize any zoning deficiencies resulting from the boundary adjustment, to the satisfaction of the Director of Community and Development Services.

1.2 Consent Application B-15/24 for Firelane 13B Road (Part 3) 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 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;
- 1.2.2 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 3); that Part 3 is merged in title with Part 5 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 3 shall be conveyed to the owner of Part 5 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;
- 1.2.3 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 3, has been carried out, the documentation to be provided within two years of issuance of the consent certificate;
- 1.2.4 That the Town's Operations Department be provided with a copy of the deposited reference plan;
- 1.2.5 That the owner/applicant obtains final approval through a *Planning Act* application for Part 1 to recognize any zoning deficiencies resulting from the conveyance of Part 3 to Part 5, to the satisfaction of the Director of Community and Development Services; and
- 1.2.6 That the owner/applicant obtains final approval through a *Planning Act* application for lands known municipally as 5 Firelane 13B Road (Parts 3 and 5), to recognize any zoning deficiencies resulting from the boundary adjustment, to the satisfaction of the Director of Community and Development Services.

## **2. EXECUTIVE SUMMARY**

Staff have received Consent Applications submitted under Section 53(12) of the *Planning Act*, proposing minor boundary adjustments. The applicant proposes to convey Part 2 (356 square metres) from the subject lands to merge with Part 4, municipally known as 10 Firelane 13B Road. Similarly, the applicant also proposes to convey Part 3 (76 square metres) to merge with Part 5, municipally known as 5 Firelane 13B Road. Staff have reviewed the applications and

consider them to meet applicable planning legislation and policies, subject to the recommended conditions.

### **3. PURPOSE**

Consent Application B-14/24 proposes a minor boundary adjustment to convey Part 2 (356 square metres) from the subject lands to merge with Part 4, municipally known as 10 Firelane 13B Road. Similarly, Consent Application B-15/24 proposes a minor boundary adjustment to convey Part 3 (76 square metres) to merge with Part 5, municipally known as 5 Firelane 13B Road. Part 1 (municipally addressed as 2-4, 6, 7, 9, 11, 13, 14 and 15 Firelane 13B Road) would be retained for continued residential purposes. The conveyance of Parts 2 and 3 is for the purposes of creating a narrower access right-of-way (being Firelane 13B Road) to all associated properties. The applicant has indicated that a subsequent *Planning Act* application will be submitted to condominiumize the lands to separate the dwellings onto individual lots (total of 10 dwellings on the subject lands).

### **4. BACKGROUND**

#### **4.1 Site Description and Surrounding Land Uses**

The subject lands are municipally known as 2-4, 6, 7, 9, 11, 13, 14 and 15 Firelane 13B Road. The property is located to the east of Firelane 13 Road (Roven Road), north of Lakeshore Road and directly south of the shoreline of Lake Ontario, in the agricultural area of the Town. The location of the subject lands is shown on **Appendix II**.

Part 1 is proposed to have an area of approximately 14,343 square metres (1.43 hectares) and fronts onto Firelane 13 Road and Lake Ontario. Part 1 contains a total of 10 single-detached dwellings supported by private servicing through a communal well and septic system. Given that the communal septic system exceeds 10,000 litres per day, it is under the jurisdiction of the Ministry of Environment, Conservation and Parks. There are also accessory structures on the lands associated with the single-detached dwellings.

Part 2 is proposed to have an area of approximately 356 square metres, a frontage of 56.68 metres on Firelane 13B Road and is currently vacant. Part 2 is proposed to merge with Part 4, 10 Firelane 13B Road.

Part 3 is proposed to have an area of approximately 76 square metres, a frontage of 19.2 metres on Firelane 13B Road and is currently vacant. Part 3 is proposed to merge with Part 5, 5 Firelane 13B Road.

Parts 4 and 5 are separate from the subject lands and each contain a single-detached dwelling serviced by individual wells and septic systems. Parts 4 and 5 will benefit from the boundary adjustments, by facilitating a larger lot size through the merger of Parts 2 and 3, respectively.

The surrounding lands are characterized by rural residential and agricultural uses.

## 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 Planning 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 Planning Statement (PPS) (2024) 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" and "Conservation" 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.

Under the "Agricultural" designation, 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. The relevant goals and objectives of the "Conservation" designation are to preserve and protect the shoreline of Lake Ontario.

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 Applications do not result in the creation of new lots, as Part 2 would be severed and conveyed to Part 4, and Part 3 would be severed and conveyed to Part 5. The proposed boundary adjustments would facilitate the narrowing of an existing right-of-way that is already oversized in width, and would add more depth to two existing lots of record that abut the subject lands. There are no impacts anticipated to the functionality of the right-of-way, as it would maintain an appropriate width to accommodate vehicular access to the dwellings. The properties impacted would continue to be used for rural residential purposes. No lands will be taken out of agricultural production as a result of the boundary adjustments, as the lands are not actively being farmed despite the "Agricultural" designation. The boundary adjustments are not anticipated to affect the ability of farming abutting agricultural lands to the east and south. As such, the boundary adjustments are considered minor in nature.

The proposed lot lines are consistent with the existing parcel fabric of 5 Firelane 13B Road and 10 Firelane 13B Road, as they are adding more depth to the lots and maintaining the same amount of frontage as what is existing. The overall property at Firelane 13B Road is already irregularly shaped and the requested boundary adjustments do not further impose irregularities on the existing parcel fabric of the lands.

No fragmentation of any key natural heritage or key hydrologic features will occur as a result of the requested boundary adjustments, and the proposal does not conflict with the relevant goals and objectives of the “Conservation” designation and the protection of the Lake Ontario shoreline.

The subject lands (including 5 Firelane 13B Road and 10 Firelane 13B Road) are zoned “Shoreline One Family Residential (RC)” in Zoning By-law 500A-74, as amended. Single-detached dwellings are a permitted use in this zone; however, it is limited to one dwelling per lot.

The overall lands at Firelane 13B Road contain 10 existing single-detached dwellings that are in a legal non-conforming status, being constructed prior to the zoning by-law being in effect. Zoning provisions for minimum lot area and minimum lot frontage and/or depth are permitted as-existing on the date of passing of the by-law. Front and rear yard setbacks are also permitted as-existing, or at a minimum of 7 metres from the lot lines for any new development. The requested boundary adjustments will result in zoning deficiencies to the overall property of Firelane 13B Road, including the separate lots at 5 Firelane 13B Road and 10 Firelane 13B Road. Conditions have been included to require the owner/applicant to seek zoning relief for the applicable deficiencies resulting from the boundary adjustment applications on all impacted properties.

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

### **5.1 Town, Agency and Public Comments**

The 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.

Finance – No objections.

Fire and Emergency Services – No objections.

Heritage – No objections. The lands are within the zone of archaeological potential and an assessment may be required for any future *Planning Act* applications.

Operations – No objections. A condition is recommended to provide Operations with the deposited reference plan.

Agencies

Enbridge Gas – No objections.

Hydro One – No objections.

Ministry of Environment, Conservation & Parks (MECP) – No objections.

Niagara Peninsula Conservation Authority (NPCA) – No objections.

Niagara Region – No objections, provided that Part 2 is merged in title with Part 4, and that Part 3 is merged in title with Part 5. Conditions have been included to reflect these requirements.

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 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 Consent Applications B-14/24 and B-15/24 for Firelane 13B Road, subject to the recommended conditions, as the applications meet *Planning Act* requirements, are consistent with the Provincial Planning Statement, and conform 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:**



**Victoria Nikoltcheva  
Senior Planner**

**Recommended by:**



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



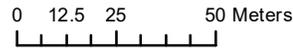
**Key Map**



**MAP 1 - LOCATION MAP**

Firelane 13B  
File: B-14-2024  
& B-15-2024

1:1,893



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# The Corporation of the Town of Niagara-on-the-Lake Information Report to Council

**SUBJECT:** 2024 Committee of Adjustment Year-in-Review  
**DATE:** 2025-01-16  
**REPORT #:** CDS-25-015  
**PREPARED BY:** Natalie Thomson, Secretary-Treasurer  
**DEPARTMENT:** Community & Development Services

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## BACKGROUND INFORMATION

The purpose of this report is to provide the Committee of Adjustment with a summary of 2024 activity.

### Committee of Adjustment Roles and Responsibilities

Town By-law No. 5499-23 (**Appendix I**) provides guidelines to establish the Committee of Adjustment and provides a Terms of Reference for its governance. The Terms of Reference provides a mandate for the Committee, the required qualifications of the members, the organization of the Committee, the duties and responsibilities of all members, and the management of the Committee.

The Committee of Adjustment is a quasi-judicial body composed of members who are appointed by Council. The Committee is guided by the provisions of the Town of Niagara-on-the-Lake's Official Plan and Zoning By-laws. The Committee is authorized by the *Planning Act* to grant minor variances from the provisions of zoning by-laws, to permit extensions, enlargements, or variations of existing legal non-conforming uses, and to hear and make decisions on consent applications to sever land, establish easements, etc. The Committee also makes decisions on fence and sign variance applications and property standards appeals, as appointed by Council.

The Committee of Adjustment meets once per month, on the third Thursday of each month, to consider and make decisions on applicable *Planning Act* applications. On average, the Committee of Adjustment reviewed 4 applications per month/meeting in 2024.

### Committee of Adjustment Application Process

The process of submitting a planning application to the Committee of Adjustment requires a landowner/applicant to first attend a pre-consultation meeting to determine which application(s) are required for a proposal and the studies and rationale needed to support it. The Town arranges the pre-consultation meetings and invites Town Staff from various departments, the Region of Niagara (if required), and other applicable agencies. Once the pre-consultation

meeting is held, the landowner/ applicant will receive a record of the comments made and studies required. In 2024, the Town facilitated 53 pre-consultation meetings related to proposals which may be subject to Committee of Adjustment approval.

When all information is ready, the landowner/applicant will submit their application with all required supporting studies, documentation and fees to the Town. In 2024, Town Staff received a total of 44 Committee of Adjustment applications.

The table provided below outlines the total number of applications received by Town Staff in 2022, 2023 and 2024 respectively.

<b>Application Type</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Consent	33	35	15
Minor Variance	48	39	23
Legal Non-Conforming Use	1	1	0
Fence Variance	4	0	5
Sign Variance	0	2	1
<b>Total</b>	<b>86</b>	<b>77</b>	<b>44</b>

In 2024, the Committee of Adjustment reviewed 44 Staff recommendation reports. Of the 44 applications, 42 were approved and 2 were refused.

The Town received one (1) appeal to the Ontario Land Tribunal in relation to a Committee of Adjustment decision to refuse a Consent Application, as well as one (1) appeal to the Town related to a decision to approve a Fence Variance Application.

### **NEXT STEP / CONCLUSION**

This report provides an overview of 2024 Committee of Adjustment activity within the Town of Niagara-on-the-Lake. Town Planning Staff work closely with all Town Departments and external agencies to ensure that the recommendations of every proposal aligns with the applicable policies, guidelines and best practices. Staff will provide yearly activity reporting to the Committee of Adjustment on an annual basis.

### **ATTACHMENTS**

- **Appendix I – By-law No. 5499-23**

**THE CORPORATION  
OF THE  
TOWN OF NIAGARA-ON-THE-LAKE  
BY-LAW NO.5499-23**

A BY-LAW TO CONSTITUTE A COMMITTEE OF ADJUSTMENT UNDER  
THE PROVISIONS OF THE PLANNING ACT AND TO REPEAL BY-LAW  
5132-19

**WHEREAS** Section 44(1) of the Planning Act R.S. O. 1990, c. P.13 provides that if a municipality has passed a by-law under section 34 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable. R.S.O. 1990, c. P.13, s. 44 (1);

**AND WHEREAS** Section 45(3) of the Planning Act R.S.O. 1990 c. P.13 provides that a council that has constituted a committee of adjustment may by by-law empower the committee of adjustment to grant minor variances from the provision of any by-law of the municipality that implements an official plan, or from such by-laws of the municipality as are specified and that implement an official plan, and when a committee of adjustment is so empowered, that subsection (1) applies with necessary modifications;

**AND WHEREAS** the Regional Municipality of Niagara by By-law No. 183-1999 has delegated to the Council of the Town of Niagara-on-the-Lake the authority for the giving of consents under Section 53 of the Planning Act R.S.O. 1990, Chapter P.13, as amended, which is deemed to include the giving of approvals to the foreclosure of or exercise of a power of sale in a mortgage or charge and the issuing of certificates of validation;

**AND WHEREAS** the Council of the Town of Niagara-on-the-Lake deems it appropriate for the Committee of Adjustment to administer variances in accordance with the Town's fence and sign by-laws, pursuant to section 45(3) of the Planning Act R.S.O. 1990 c. P.13;

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

1. That the Committee of Adjustment (hereinafter referred to as the "Committee") is hereby constituted.
2. That the members of the Committee shall be appointed by resolution of Council for the term of Council and until their successors are appointed. Where a member ceases to be a member before the expiration of their term, Council shall appoint another eligible person for the unexpired portion of the term.
3. That the authority for the giving of consents under Section 53 of the Planning Act, R.S.O. 1990, Chapter p. 13, as amended (hereinafter referred to as the "Act"), which is deemed to include the giving of approvals to the foreclosure of or exercise of a power of sale in a mortgage or charge (subsection 50(18) of the Act) and the issuing of certificates of validation (Section 57) is hereby delegated to the Committee.
4. That the Committee is hereby empowered to make decisions on fence variance applications in accordance with the Town Fence By-law No. 4778-14.
5. That the Committee is hereby empowered to make decisions on sign variance applications in accordance with the Town Sign By-law.

6. That where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum. (Planning Act, Section 44(5))
7. That the members of the Committee of Adjustment shall also constitute the membership of the Property Standards Appeals Committee.
8. That the Committee shall elect a chair and vice-chair. When both the chair and vice-chair are absent the Committee shall appoint another member as acting chair.
9. That the Committee shall be governed, including with regard to remuneration for the members of the Committee, by the Terms of Reference of the Committee of Adjustment, as set out in Schedule "A" attached hereto and forming part of this By-law.
10. That By-law No. 5132-19 is hereby repealed in its entirety.
11. That this by-law shall come into force and take effect immediately upon the passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 28TH DAY OF MARCH 2023**

  
LORD MAYOR GARY ZALEPA

  
TOWN CLERK, DONNA DELVECCHIO



# Terms of Reference

## Committee of Adjustment

### 1.0 MANDATE

1.1 The Committee of Adjustment/Property Standards Order Appeals Committee (Committee) is a statutory tribunal which operates independently from Council. Authority is delegated to the Committee by the Town of Niagara-on-the-Lake Council (Council), under the provisions of the *Planning Act, R.S.O. 1990, c. P.13* (Planning Act) and the *Building Code Act, 1992, S.O. 1992, c.23* (Building Code Act) to hold public hearings for the purposes of making decisions with respect to applications for: Minor Variances; Legal Non-Conforming Uses (extension/enlargement/similar use); Consents; Fence Variances; Sign Variances; and Property Standard Order Appeals.

### 2.0 QUALIFICATIONS

- 2.1 Members shall have access to a computer and an email address to receive meeting invitations and agenda packages with large files.
- 2.2 Members shall be residents of the Town of Niagara-on-the-Lake (Town), work in the municipality or have a place of business in the municipality.
- 2.3 Members shall have a demonstrated commitment to, and interest in, the Community.
- 2.4 An understanding of the planning framework and applicable planning documents, including Provincial, Regional and Town land use planning policy and legislation.
- 2.5 An understanding of property standard regulations, including the Building Code Act, Town Official Plan and Property Standards By-law.
- 2.6 An understanding of fence regulations, including Municipal Act, 2001, S.O. 2001, c.25 (Municipal Act) and Town Fence By-law No. 4774-14.
- 2.7 An understanding of sign regulations in accordance with the Town Sign By-law No.4568-12
- 2.8 Organized, available and committed to conducting site inspections of all subject properties and attending all Committee meetings and training sessions.
- 2.9 Objective and have an open mind in order to fully consider the recommendations of Staff and the evidence provided.

### 3.0 ORGANIZATION

3.1 The committee is established by The Town of Niagara-on-the-Lake Council (Council) in

accordance with these Terms of Reference. Members are guided by these Terms of Reference.

- 3.2 Applications for the Committee of Adjustment/Property Standards Order Appeals Committee appointments are requested at the beginning of the term of Council. Members will be appointed by resolution of Council for the current four (4) year term until and until their successors are appointed.
- 3.3 This committee will consist of no more than nine (9) members.
- 3.4 The Committee is a quasi-judicial body, somewhat court-like in its operation, charged with observance and protection of applicable law and also with protecting the rights of the individuals affected by the decisions made.
- 3.5 The common law principles of natural justice require the Committee of Adjustment to ensure that individuals affected by their decisions have their equivalent of "a day in court".
- 3.6 Review of Property Standards Order Appeals will be guided by By-law No. 4779-14 and shall not follow the requirements of the Planning Act.
- 3.7 The Committee must also satisfy requirements concerning statutory notice, public hearings, calling of witnesses, and recording of proceedings.
- 3.8 The goal of the Committee of Adjustment is to provide for and conduct a fair hearing by:
  - a) Allowing anyone wishing to speak to an application an opportunity to do so;
  - b) Giving due diligence to the consideration of each application;
  - c) Openly having all discussions about each application and making all decisions in public at the hearing;
  - d) Making rational decisions with appropriate, well-thought-out conditions; and
  - e) Clearly stating the reasons for their decisions.
- 3.9 Requests to the Committee for withdrawal or adjournment must be in writing and submitted to the Secretary-Treasurer no later than one (1) day prior to the hearing of that application. Requests will be disposed of in accordance with the following:
  - a) Requests for withdrawal or adjournment prior to public notice will not require a vote from the Committee and applicants need not attend the hearing;
  - b) Requests for withdrawal or adjournment after public notice will require a vote from the Committee and the applicant must attend the hearing; and
  - c) The decision of the Committee, whether granting or refusing an application, shall be in writing and shall be signed by only those members who concur in the decision.
- 3.10 Decisions on minor variance, legal non-conforming use, and consent applications may be appealed to the Ontario Land Tribunal.

3.11 Decisions on fence variance and sign variance applications may be appealed to Council.

3.12 Decisions on property standards order appeals may be appealed to the Superior Court of Justice.

3.13 The Committee may make recommendations on issues within their mandate that warrant Council's consideration.

3.14 An ad-hoc committee will be considered disbanded after its' mandate has been fulfilled.

#### **4.0 DUTIES & RESPONSIBILITIES**

##### **4.1 First Meeting of the Committee**

a) The members will elect a Chair and a Vice Chair at the first meeting.

##### **4.2 Chair**

- a) Chair all regular meetings of the committee and exercises authority and performs duties as required.
- b) Ensure that decorum is maintained at each meeting and that the rules of procedure and conduct are observed in accordance with By-law No. 5125-19 (Procedure by-law for the Town).
- c) Ensure that all committee members are provided an opportunity to comment.
- d) If applicable, assure that all applications are provided an opportunity to present and comment
- e) If applicable, assure that all members of the public are provided an opportunity to speak
- f) Provides guidance and leadership to the committee in the completion of its mandate.

##### **4.3 Vice Chair**

a) Assume all functions of the Chair in the Chair's absence.

##### **4.4 Members**

- a) Attend meeting of the committee (if unable to attend notification should be sent the staff liaison as soon as possible prior to the meeting).
- b) Review agendas and reports sent prior to the meeting.
- c) Conduct site visits for upcoming applications.
- d) Contribute time, knowledge, skill and expertise to the fulfillment of the committee mandate.
- e) Are cognizant of any conflict of interest or perceived conflict in terms of issues that may service to benefit them personally.
- f) Act to protect the privacy of individuals with respect to personal information contained in reports and information circulated to the committee.
- g) Any committee member missing three (3) consecutive meetings without reasonable cause

or explanation will be deemed to have resigned from the advisory committee, filling of vacancies for the committee will be considered by Council.

#### **4.5 Quorum**

- a) Where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum. (Planning Act, Section 44(5)).
- b) If quorum is not attained within fifteen (15) minutes after the hour set for a meeting, the recording secretary shall call the roll and take down the names of the Members present and the meeting shall stand adjourned until the next meeting

#### **4.6 Support Staff**

- a) This committee shall be assisted by staff of Community & Development Services - Secretary-Treasurer and Planning Staff, who will provide expert advice, technical reports, background information and recommendations to the Committee.

### **5.0 ROLES**

#### **5.1 Committee of Adjustment may:**

- a) Give consent to convey or divide land when a plan of subdivision is not necessary, mortgage or charge land or grant an interest in land for 21 years or more, for example by easement, right-of-way, lease, or agreements;
- b) Give approval to the foreclosure of or exercise of a power of sale in a mortgage or charge and to issue of certificates of validation;
- c) Authorize a minor variance from the provisions of the Town Zoning By-law in respect of land, buildings or structures or their use;
- d) Permit the enlargement or extension of a legal non-conforming use of any land, building or structure;
- e) Permit the use of any land, building or structure for a purpose that is similar a legal non-conforming use or is more compatible with the uses permitted by the Zoning By-law;
- f) Permit the use of any land, building or structure for any purpose that conforms with uses defined in general terms in the Zoning By-law;
- g) Grant or deny a variance with respect to Sections 3, 5 and 6 of the Town Fence By-law; and;
- h) Grant or deny a variance from the provisions of the Town Sign By-law.

#### **5.2 Property Standards Order Appeals Committee may**

- a) Confirm, modify, or rescind the order to demolish or repair; and
- b) Extend the time for complying with the order.

### **6.0 MANAGEMENT OF THE COMMITTEE**

#### **6.1 Meeting Schedule**

- a) This committee shall meet on the third Thursday of each month.
- b) Established meeting dates and times will not be changed unless circumstances

warrant special consideration.

- c) The annual schedule will be provided at the beginning of each year.
- d) Meetings will be held virtually unless otherwise directed by Council.
- e) All notices of meetings will be posted on the Town's web-calendar.
- f) The meeting agenda and presentation packages for each Committee meeting will be sent electronically to members in accordance with the Procedure By-law.

### **6.2 Delegations**

- a) Delegations are limited to anyone wishing to speak to the Committee about a particular application or appeal on the meeting agenda.
- b) Delegations will be limited to ten (10) minutes.

### **6.3 Conflict of Interest**

- a) Members shall avoid conflicts of interest. Members shall take proactive steps to mitigate conflicts of interest in order to maintain public confidence in the Town and its elected officials. Members are encouraged to seek guidance from the Integrity Commissioner and/or legal advice when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest.
- b) All members have the duty to advise of any conflict of interest with respect to all matters before the committee. Members should decline to participate in the disposal of a matter where a real or apparent conflict is present.
- c) If a member has any conflict of interest on any matter and is present at a meeting at which the matter is the subject of consideration, the member:
  - i) Should, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
  - ii) Should not take part in the discussion of any question in respect of the matter; and
  - iii) Should not attempt in any way whether before, during or after the meeting to influence the discussion of the application.

### **6.4 Application Fees**

- a) Application fees are established by Council in the Planning Application Fees Schedule.
- b) Despite the fees established by Council, in processing an application, the Committee may reduce the amount of or waive the requirement for the payment of a fee in respect of the application where the Committee is satisfied that it would be unreasonable to require payment in accordance with the fee.
- c) Requests for the reduction or waiver of a fee must be in writing and submitted to the Secretary- Treasurer one week prior to the hearing date for that application.
- d) A refund of fees regarding the withdrawal or adjournment of an application are established by Council in the Planning Application Fees Schedule.

### **6.5 Reporting**

- a) Minutes of this committee will be forwarded directly into the information package unless there are action items, then minutes will be forwarded directly to Council.

## **6.6 Remuneration**

- a) \$75.00 for honorarium per meeting attended; and
- b) Travel allowance to be determined by a measurement of distance in kilometres in accordance with the Town's current rate for mileage reimbursement, and only to be paid in the event of a member attending site visit(s) in person.

## **7.0 Enabling Legislation and By-laws (as amended)**

Municipal Act, 2001, S.O 2001, c. 25  
Planning Act, R.S.O. 1990, c. P.13  
Statutory Powers Procedure Act, R.S.O 1990, c. S.22  
Committee of Adjustment By-law No. 5132-19  
Procedural By-Law No. 5125-19  
Fence By-law No. 4778-14  
Property Standards By-law No. 4779-14  
Sign By-law No. 4586-12  
Comprehensive Zoning By-law No. 4316-09  
Zoning By-law No. 500A-74