



COMMITTEE OF ADJUSTMENT

Thursday, May 15, 2025, 6:00 p.m.

	Pages
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-04/25 – 407 Victoria Street, CDS-25-068	2
5.2 Minor Variance Application A-05/25 – 310 Simcoe Street, CDS-25-061	14
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5.5 Consent Application B-04/25 and Minor Variance Application A-08/25 – 767 Concession 2 Road, CDS-25-066	46
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March 20, 2025 minutes.	
7. NEW BUSINESS	
8. NEXT MEETING DATE	
Thursday, June 19, 2025 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-25-068 **COMMITTEE DATE:** 2025-05-15
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Minor Variance Application A-04/25 – 407 Victoria Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-04/25 for 407 Victoria Street be approved, subject to the following conditions:
 - 1.1.1 That a Stage 1 and 2 archaeological assessment be completed, by a consultant archaeologist licensed by the Ministry of Citizenship and Multiculturalism under the provisions of the Ontario Heritage Act (R.S.O. 1990), on the whole subject lands and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. The results of the Stage 1 and 2 archaeological assessment will determine the need for further studies. 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 all archaeological assessment reports and Ministry Compliance Letters are submitted to the Town, to the satisfaction of the Town;
 - 1.1.2 That the owner/applicant submit a Tree Inventory and Protection Plan, completed by a certified arborist, including all Town trees, to the satisfaction of the Town's Urban Forestry Officer; and,
 - 1.1.3 That the owner/applicant submits and obtains approval from the Town for the removal or relocation of any tree on the subject property, including any compensation, to the satisfaction of the Town's Urban Forestry Officer.

2. PURPOSE

The applicant is proposing the construction of a new single-detached dwelling with an attached garage. In order to facilitate the development as proposed, the following variances from the provision of Town Zoning By-law 4316-09, as amended, are requested:

1. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 6.58 metres for the proposed covered porch;

2. Minimum exterior side yard setback from 4.5 metres, as required in the Zoning By-law, to 2.14 metres for the proposed dwelling facade;
3. Minimum exterior side yard setback from 4.5 metres, as required in the Zoning By-law, to 1.22 metres for the proposed covered porch; and
4. Maximum step encroachment into a side yard from 0.6 metres, as permitted in the Zoning By-law, to 3.6 metres for the proposed unenclosed and uncovered steps.

The application drawings are attached as **Appendix I** to this report.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 407 Victoria Street, situated on the west corner of the intersection of Victoria Street and William Street within the Urban Area of Old Town. The location of the subject lands is shown on **Appendix II** to this report.

The subject lands have an approximate area of 831 square metres with 18.29 metres of frontage on Victoria Street, and 45.46 metres of flankage on William Street. The lands contain an existing one-storey single-detached dwelling and an accessory structure. The property is serviced by municipal water and sanitary services. The surrounding lands are characterized by single-detached residential dwellings.

3.2 Queen-Picton Heritage Conservation District Study Area

The subject property is located within the Queen-Picton (Old Town) Heritage Conservation District Study Area. At the February 25, 2025 Council Meeting, Council approved enacting the Revised Study Area By-law under Section 40.1 of the *Ontario Heritage Act* with an effective date of March 27, 2025. The Study Area By-law established temporary restrictions on property alterations within the Queen-Picton (Old Town) Heritage Conservation District Study Area for one year, with specific exemptions. All *Planning Act* applications received on or before March 27, 2025, are not subject to the Study Area By-law currently in effect. The Minor Variance application for 407 Victoria Street was submitted on March 26, 2025 and as such, is not subject to the Study Area By-law currently in effect.

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 front yard setback of the proposed new dwelling will provide a greater setback than the current existing dwelling which was permitted by way of a Minor Variance in 1994. The orientation of the new home will be on William Street; however, the front yard remains on Victoria Street as it is the shorter of the two as per the definition of front yard under Zoning By-law 4316-09, as amended.

The requested setbacks are not uncharacteristic for the immediate neighbourhood, there are several properties, including 393 Victoria Street (across William Street) with reduced exterior side yards. The plans submitted with the application indicate that there is an intention to plant trees at the front of the driveway, in addition to the garage being set back behind the building face, which will assist in visually screening the garage fronting William Street. Staff do not anticipate the requested setbacks will result in adverse impacts to the adjacent lands and overall streetscape of Victoria Street and William Street.

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?

The surrounding properties are comprised of one and two-storey single-detached dwellings; the proposal would facilitate the construction of a dwelling that is consistent with the built form in the immediate neighbourhood. Town staff note that the requested variances allow for increased living area, in addition to an attached garage. Further, the proposed new dwelling will accommodate greater front yard setbacks to Victoria Street than the existing dwelling, allowing for additional landscaped area to assist in beautifying the streetscape. The road allowance width of William Street is quite large (approximately 10 metres), which has the effect of a larger exterior side yard. Given the Town road allowance, the dwelling will be set back 12.14 metres from William Street.

Town staff consider the requested variances to be appropriate for the development and use of the land as the variances are not anticipated to negatively impact the character of the streetscape.

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

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

The requested exterior side yard setback and step encroachment will allow for a façade that engages with the streetscape, particularly on William Street. While the existing house is proposed for removal, the overall streetscape is not anticipated to significantly impacted as a result of the new dwelling. The proposed development will shift the bulk of the dwelling from front yard dominant to exterior side yard dominant. This shift will in effect provide greater setback from the road, and will continue to maintain the general character of the property. Further, all other Existing Residential Zone requirements will be met.

Staff are of the opinion that 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?

As of March 31, 2025, pursuant to Bill 185 the *Cutting Red Tape to Build More Home Act, 2024*, the *Planning Act* was amended to recognize the Regional Municipality of Niagara as an upper-tier municipality without planning responsibilities. Accordingly, the Niagara Official Plan

("NOP") has been downloaded to the Town of Niagara-on-the-Lake and other local area municipalities across the Region to implement the policy direction contained therein.

The subject lands are designated and Delineated Built-up Area in the Niagara Official Plan, 2022, as well as "Low Density Residential" and "Built-up Area" in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended. A single-detached dwelling is a permitted use.

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.

Section 6A outlines urban design guidelines in Old Town that require new development to fit within the context of which it is located and be designed in a manner where it is consistent with the land use compatibility criteria of the Official Plan. This criterion directs for development to have a consistent built form, height, massing, and building setbacks as the surrounding area.

The proposal does not conflict with the goals and objectives of the Residential designation and is facilitating a permitted use that is consistent in terms of built form and scale when compared to the surrounding neighbourhood. Relevant urban design guidelines have been considered in the review of the requested variances. Staff are of the opinion that the proposed development is consistent with the surrounding neighbourhood and is not anticipated to result in any negative impacts.

The requested variances 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.

Finance – No objections.

Fire and Emergency Services– No objections.

Heritage – An Archaeological Assessment is required; a condition has been included to ensure that this work is completed in advance of any ground disturbance.

Operations – No objections.

Urban Forestry – Private trees will be impacted by the construction works required for the proposed dwelling with attached garage. A Tree Inventory and Protection Plan, completed by a

certified arborist, including all Town trees, to the satisfaction of the Town's Urban Forestry Officer is required.

Agencies

No comments or 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 application.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

Private trees will be impacted by the new single-detached dwelling with an attached garage proposed garage construction. Any tree removal and/or impacts will be addressed through the Town's Private Tree By-law.

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-04/25 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 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 Drawings
- **Appendix II –** Location Map

Respectfully submitted:

Prepared by:



**Alex Bokestyn
Planner II**

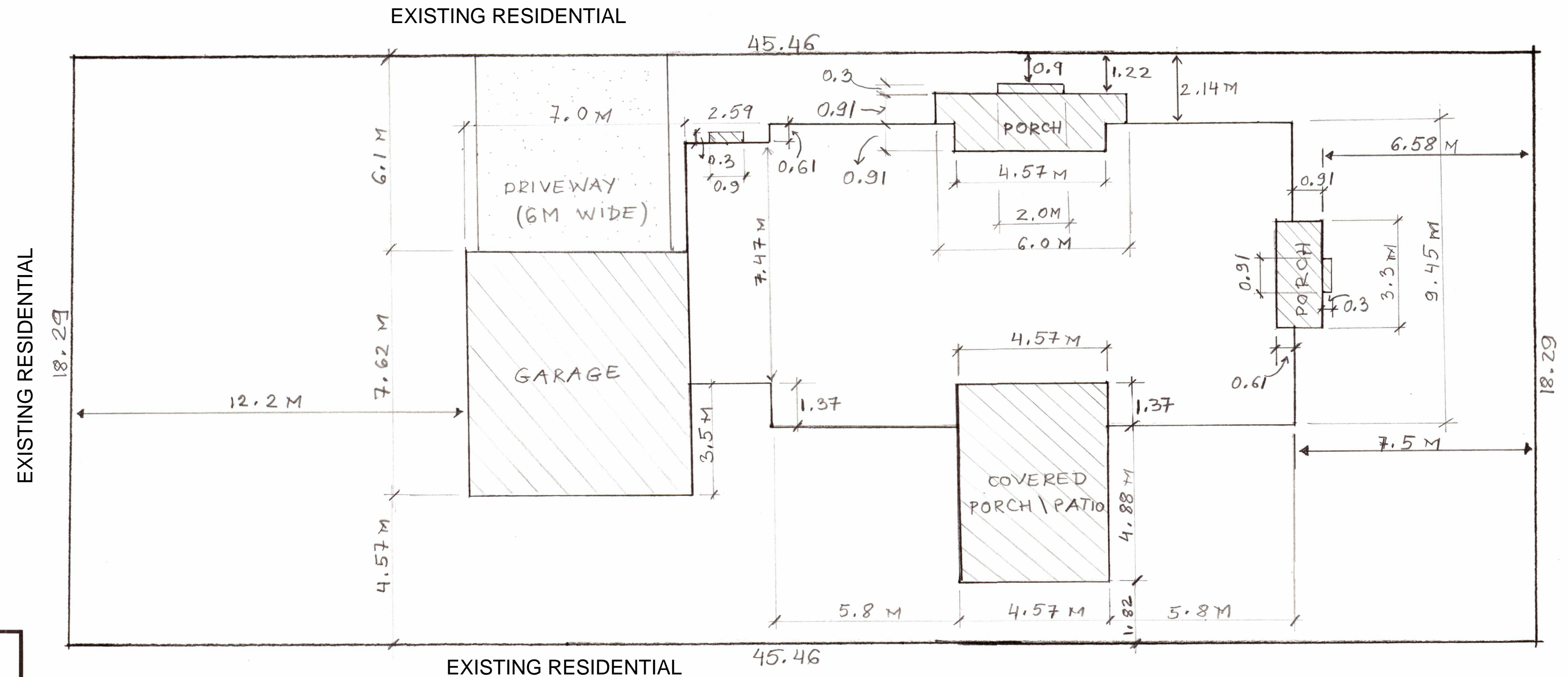
Recommended by:



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



WILLIAM STREET (MUNICIPAL ROAD – 29.27 WIDE)



PROPOSED PRIVATE
RESIDENCE

407 VICTORIA STREET
NOTL, ONTARIO

SITE PLAN (metric)
SCALE 1:100
MARCH 19, 2025.

LOT AREA: 831.14 M SQ

COVERAGE AREA:

HOUSE:	159.70 M SQ
GARAGE:	53.34 M SQ
PORCH AND STEPS:	44.30 M SQ
TOTAL:	257.34 M SQ

LOT COVERAGE (%) : 30.96 %

VICTORIA STREET (MUNICIPAL ROAD – 20.12 WIDE)



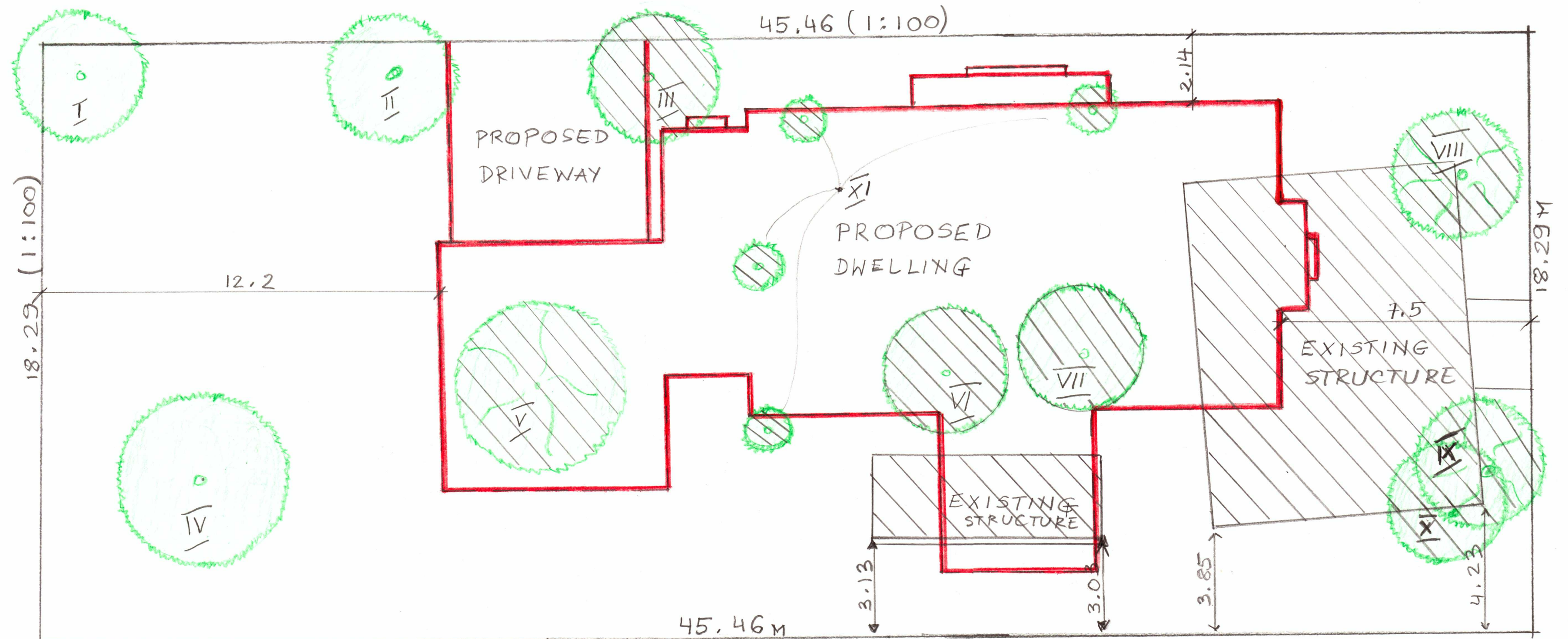
PROPOSED PRIVATE
RESIDENCE

407 VICTORIA STREET
NOTL, ONTARIO

ELEVATION (imperial)
SCALE 1/4" = 1'-0"
MARCH 19, 2025.



WILLIAM STREET (MUNICIPAL ROAD – 29.27 WIDE)



PROPOSED PRIVATE
RESIDENCE

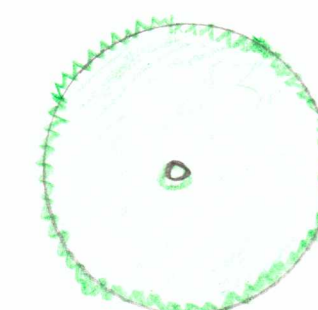
407 VICTORIA STREET
NOTL, ONTARIO

TREE INVENTORY
MARCH 19, 2025.

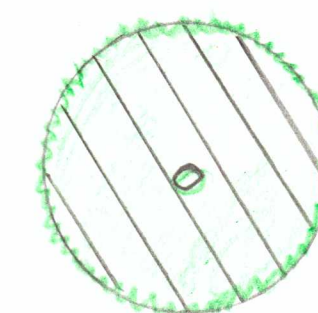
TREES AND LARGE SHRUBS TO BE REMOVED

1. III – evergreen large coniferous tree
2. V - Japanese maple shrub/tree
3. VI, VII – walnut trees (most branches are hollow and secured with metal cables)
4. VIII, IX, X – cedar (Thuja) perennial shrub/tree
5. XI – small decorative trees (below 10 cm trunk diameter)

NO TREES OWNED BY TOWN NEED TO BE REMOVED.



TREE TO BE PRESERVED

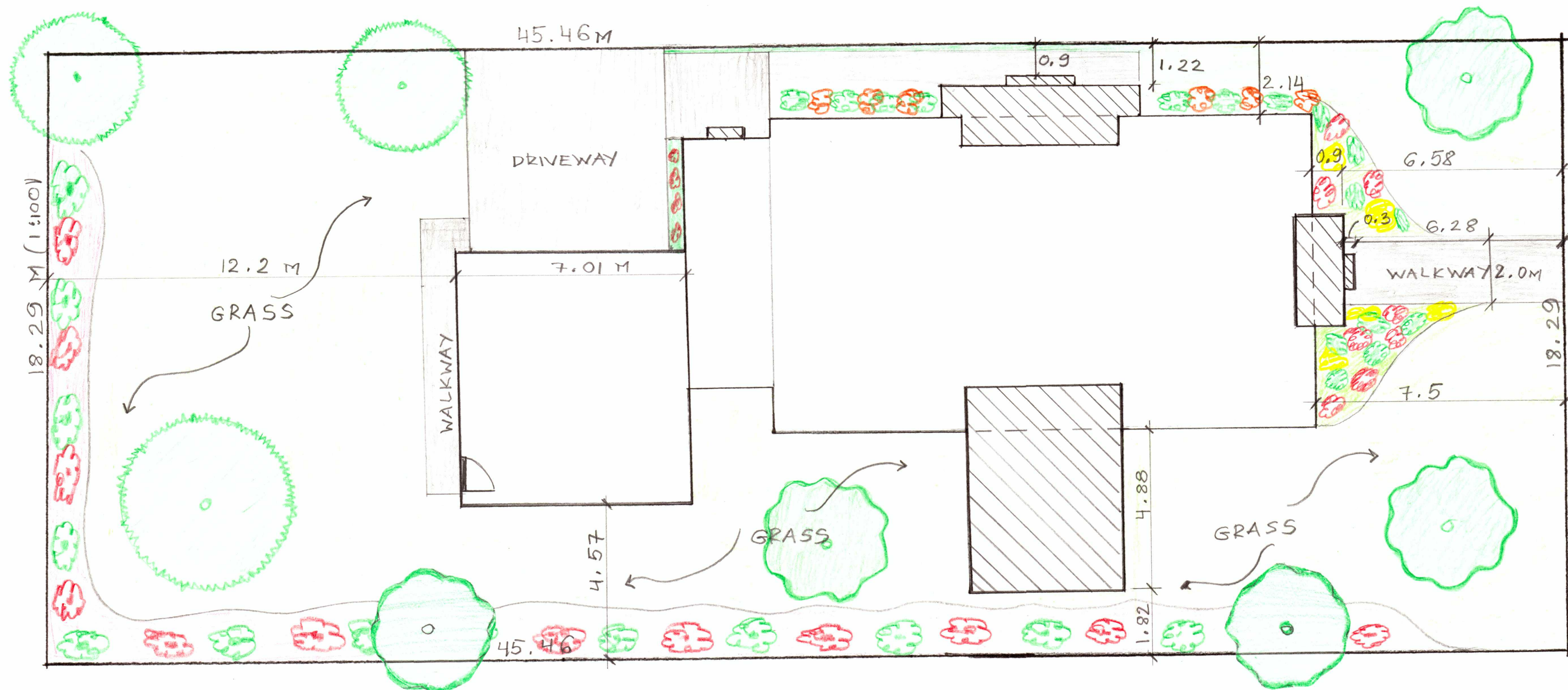


TREE TO BE REMOVED DUE
TO DEVELOPMENT

VICTORIA STREET (MUNICIPAL ROAD – 20.12 WIDE)

WILLIAM STREET (MUNICIPAL ROAD – 29.27 WIDE)

VICTORIA STREET (MUNICIPAL ROAD – 20.12 WIDE)

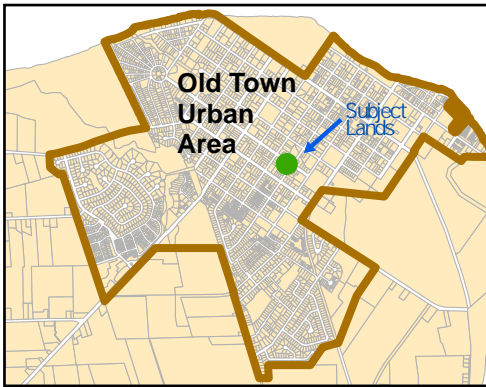


PROPOSED PRIVATE
RESIDENCE

407 VICTORIA STREET
NOTL, ONTARIO

PROPOSED LANDSCAPING
MARCH 19, 2025.

LOT AREA: 831.14 M SQ	
TOTAL COVERAGE AREA:	
HOUSE:	159.70 M SQ
GARAGE:	53.34 M SQ
PORCH AND STEPS:	44.30 M SQ
WALKWAYS AND	
DRIVEWAY	76.10 M SQ
TOTAL:	333.44 M SQ
TOTAL LOT COVERAGE (%) : 40.11 %	
LANDSCAPE OPEN SPACE (%) : 59.88 %	

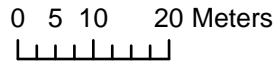


Map 1: LOCATION MAP

407 Victoria Street
File No: A-04-2025

N

Scale: 1:1,000





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-25-061 **COMMITTEE DATE:** 2025-05-15
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Minor Variance Application A-05/25 – 310 Simcoe Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-05/25 for 310 Simcoe Street be approved, subject to the following conditions:
 - 1.1.1 That a Stage 1 and 2 archaeological assessment be completed, by a consultant archaeologist licensed by the Ministry of Citizenship and Multiculturalism under the provisions of the Ontario Heritage Act (R.S.O. 1990), on the whole subject lands and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. The results of the Stage 1 and 2 archaeological assessment will determine the need for further studies. 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 all archaeological assessment reports and Ministry Compliance Letters are submitted to the Town, to the satisfaction of the Town;
 - 1.1.2 That the owner/applicant submits and obtains approval of Town permit applications for the proposed tree removal, which may include but not be limited to the completion of a Tree Inventory and Protection Plan. 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.

2. PURPOSE

The applicant is proposing the demolition of the existing single-detached dwelling and detached accessory structure (carport), to enable the construction of a new single-detached dwelling with an attached garage on the subject lands. In order to facilitate the development of the new dwelling as proposed, the following variances from the provisions the Town's Comprehensive Zoning Bylaw 4316-09, as amended, are being requested:

1. Maximum lot coverage from 33%, as required in the Zoning By-law, to 37.5% for the proposed single detached dwelling and attached garage;

2. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 6.13 metres for the proposed attached garage;
3. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 4.55 metres for the proposed dwelling facade;
4. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 4.05 metres for the proposed covered front porch; and
5. Maximum step encroachment from 1.5 metres, as permitted in the Zoning By-law, to 3.76 metres for the proposed unenclosed and uncovered front step.

The application drawings are attached as **Appendix I** to this report.

3. BACKGROUND

3.1 Site Description and Proposal

The subject lands are known municipally as 310 Simcoe Street, lying on the east side of Simcoe Street, at the southeast corner of the Gage Street at Simcoe Street intersection, in the urban area of Old Town. The surrounding lands are characterized by residential and institutional uses. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 825.6 square metres with 25.4 metres of frontage on Gage Street, and 32.5 metres of flankage on Simcoe Street. The subject lands currently contain an existing single-detached dwelling and a detached accessory structure (carport), which are proposed to be demolished to accommodate the construction of a new single-detached dwelling and attached garage as shown in **Appendix I**. The existing single-detached dwelling and carport is shown in **Figure 1**. The dwelling is serviced by municipal water and sanitary connections.



Figure 1 – Existing Dwelling and Carport from Gage Street (left) and Simcoe Street (right)

In the case of a corner lot, Town Zoning By-law 4316-09, as amended, defines “lot line, front” as the shorter lot line abutting the street. Accordingly, the front yard setback for 310 Simcoe Street is to be measured from Gage Street, while the exterior side yard setback is to be measured from Simcoe Street. The proposal creates deficiencies from the Zoning By-law 4316-09, as amended, related to the lot coverage, the front yard setback of the proposed of the attached garage, dwelling façade, and covered porch, and the encroachment of the proposed unenclosed and uncovered front step into the required front yard.

3.2 Queen-Picton Heritage Conservation District Study Area

The subject property is located within the Queen-Picton (Old Town) Heritage Conservation District Study Area. At the February 25, 2025 Council Meeting, Council approved enacting the Revised Study Area By-law under Section 40.1 of the *Ontario Heritage Act* with an effective date of March 27, 2025. The Study Area By-law established temporary restrictions on property alterations within the Queen-Picton (Old Town) Heritage Conservation District Study Area for one year, with specific exemptions. All *Planning Act* applications received on or before March 27, 2025, are not subject to the Study Area By-law currently in effect. The Minor Variance application for 310 Simcoe Street was submitted on March 21, 2025 and as such, is not subject to the Study Area By-law currently in effect.

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. Are the requested variances minor in nature?

The proposed lot coverage will exceed the maximum lot coverage permitted (33% of the lot area) by 4.5%, with a proposed total lot coverage of 37.5% of the lot area.

The increase in permitted lot coverage is considered minor in nature, as it is not anticipated to compromise the general function of the lot, nor result in adverse impacts on surrounding properties. It is Staff's opinion that the proposal would continue to provide adequate spaces for amenities, parking, landscaping, and stormwater management on the lot. At the time of building permit, a Grading Plan completed by an Ontario Land Surveyor or Professional Engineer will be required. The Plan will be reviewed by Town Building Staff to ensure that proper drainage for the site is achieved, and neighbouring properties are not negatively impacted by potential drainage issues.

The proposed front yard setback for the attached garage will be deficient of the minimum front yard setback required of 7.5 metres by 1.2 metres, with a proposed setback of 6.13 metres. The proposed front yard setback for the dwelling façade will be deficient of the minimum front yard setback required of 7.5 metres by 2.95 metres, with a proposed setback of 4.55 metres. The proposed front yard setback for the covered porch will be deficient of the minimum front yard setback required of 7.5 metres by 3.45 metres, with a proposed setback of 4.05 metres. The proposed step encroachment into the required front yard for the unenclosed and uncovered front step will exceed the maximum permitted encroachment of 1.5 metres by 2.26 metres, with an encroachment of 3.76 metres.

The location of the attached garage, dwelling façade, covered front porch, and unenclosed and uncovered front step are not anticipated to result in visual obstruction or impact to the public realm, and are in line with the existing setbacks in the area. Any potential impact of the reduced front yard setback(s) and encroachment of the unenclosed and uncovered front steps into the required front yard on the streetscape and character of the area are expected to be mitigated by the generous grassed boulevard, shown in **Figure 2**. As such, Staff are satisfied that the proximity of the new attached garage, dwelling façade, front porch, and unenclosed and uncovered front step to Gage Street are not anticipated to create significant adverse impacts on the abutting lands or streetscape.



Figure 2 – Large Grassed Boulevard Provides Buffering Between Lot Line and Street

The applicant has identified one (1) private tree in proximity to the footprint of the new dwelling that will require removal. The removal of this tree will require the applicant to obtain a tree removal permit under the Town's Private Tree Protection By-law No. 5139-19. A condition of approval to reflect this requirement has been included in Staff's recommendation. A Tree Declaration Form has been signed and submitted by the applicant, confirming that any tree removal will comply with the Town's Private Tree Protection By-law.

Staff are of the opinion that the requested variances are considered minor in nature.

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

The applicant has advised that the requested increased lot coverage and reduced front yard setbacks are necessary to accommodate a majority one-storey plan. The applicant has also noted that the new dwelling will incorporate similar design features to the established neighbourhood, contributing to the redevelopment of the site. The surrounding properties are comprised of one- to two-storey single-detached dwellings with a range of design features and materials, contributing to a diverse built form in the surrounding neighbourhood.

A review of the immediate neighbourhood reveals varying lot coverages, ranging from approximately 15% to 40%. The requested lot coverage is not uncharacteristic for the

immediate neighbourhood and Staff do not anticipate the increase in coverage to result in adverse impacts to the adjacent lands and overall streetscape of Victoria Street

Neighbouring properties have front yard setbacks which range from approximately 0 metres to 10 metres. The proposed setbacks would facilitate the construction of a dwelling that is consistent with the built form in the immediate neighbourhood.

It is Staff's opinion that the location and size of the new dwelling is compatible with the area. Staff do not anticipate adverse impacts to the adjacent properties and consider the requested variances to be appropriate for the development and use of the land.

3. Do the requested variances maintain the general intent and purpose of the By-law?

The subject lands are zoned "Established Residential (ER) Zone" in Zoning By-law 4316-09, as amended. Single-detached dwellings and associated accessory structures are permitted in this zone.

The intent of the maximum lot coverage is to avoid over development of lots, and to maintain adequate space for amenities, parking, landscaping, and storm water management. Staff are of the opinion that the adequate spaces for amenities, parking, landscaping, and stormwater management on the lot is maintained. The requested coverage is not uncharacteristic for the immediate neighbourhood and Staff do not anticipate the increase in coverage to result in adverse impacts to the adjacent lands or overall streetscape of the neighbourhood. Further, the covered porch provides outdoor amenity space that is sheltered from the elements.

The intent of the minimum front yard setback is to ensure a relatively uniform setback along the street, as well as to ensure adequate area for amenity space and parking. It is Staff's opinion that no negative impacts to the subject lands, adjacent properties, or public realm or streetscape are anticipated as a result of the requested location of the proposed dwelling façade, garage, covered front porch, or unenclosed and uncovered front step. The porch being located closer to the public realm encourages social interaction with pedestrians. The proposed front yard setbacks are in keeping with the setbacks and front step locations established within the neighbourhood, including the adjacent property at 184 Gate Street.

The proposed setbacks and lot coverage are consistent with lots in the surrounding area. Staff are satisfied that the variances will allow for redevelopment of the lot that is consistent in terms of built form, height, massing, and building setbacks as the surrounding area, and respects and reflects the existing pattern and character of adjacent development,

Staff are of the opinion that the requested variances maintain the general intent and purpose of the Zoning By-law.

4. Do the requested variances maintain the general intent and purpose of the Official Plan?

As of March 31, 2025, pursuant to Bill 185 the *Cutting Red Tape to Build More Home Act, 2024*, the *Planning Act* was amended to recognize the Regional Municipality of Niagara as an upper-tier municipality without planning responsibilities. Accordingly, the Niagara Official Plan

("NOP") has been downloaded to the Town of Niagara-on-the-Lake and other local area municipalities across the Region to implement the policy direction contained therein.

As per the NOP, the subject lands are within the "Urban Built – Up Area." Section 2.2.1.1 of the NOP encourages opportunities for the integration of gentle density and a mix and range of housing options that consider the character of established residential neighbourhoods. The NOP also states that Local Area Municipalities may establish standards for appropriate infill development in established residential neighbourhoods to reflect the unique scale and character of these areas.

The subject lands are designated "Established Residential" in the Town Official Plan (2017 consolidation, as amended). Single-detached dwellings and associated accessory structures are permitted in this designation.

The goals and objectives of the Residential designation as set out in the Town 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.

Section 6A (Growth Management), Subsection 4.4 – Urban Design of the Official Plan outlines urban design guidelines in Old Town that require new development to fit within the context of which it is located and be designed in a manner where it is consistent with the land use compatibility criteria of the Official Plan. These criteria direct development to have a consistent built form, height, massing, and building setbacks as the surrounding area. Official Plan Amendment 78 (Residential Infill and Intensification Policies) requires that infill and intensification development and redevelopment within lands designated "Established Residential" respects and reflects the existing pattern and character of adjacent development.

The proposal does not conflict with the goals and objectives of the Residential designation and is facilitating a permitted use. It is Staff's opinion that the requested variances would permit the redevelopment of the site in a compatible manner with the surrounding land uses, given that a low density single-detached residential dwelling is proposed which promotes the maintenance and rehabilitation of the existing housing stock.

It is Staff's opinion that the proposed covered front porch, building façade, and steps are located appropriately, and the setbacks requested are consistent with surrounding properties. It is not anticipated that the proposed increase in lot coverage associated with the redevelopment of the site would result in incompatibility with neighbouring lands.

Regarding the proposed reduction in required setback for the attached garage, Section 6A (Growth Management), Subsection 4.4 – Urban Design(e) of the Official Plan requires that garages shall be set back from the front face of a single-detached dwelling. Official Plan Amendment 78 (Residential Infill and Intensification Policies) states that the width of the garage at the front of a new dwelling shall be limited to ensure that the streetscape is not dominated by garages and driveways. The garage is proposed to be setback 1.5 metres from

the front face of the covered front porch, and is limited in width (less than 50% of the façade of the dwelling) so as to not dominate the streetscape.

Staff are satisfied that the proposal is consistent with the direction contained in the Town Official Plan “Established Residential” designation. Staff consider the requested variances to maintain the general intent and purpose of the Town Official Plan. Staff also consider the requested variances to maintain the general intent and purpose of the NOP.

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.

Fire and Emergency Services – No objections.

Heritage – The subject lands are located within the zone of archaeological potential according to the Town and Niagara Official Plans and, therefore, a Stage 1 and 2 archaeological assessment is required. The requirement to complete an archaeological assessment has been included as a condition of the recommended approval for the Minor Variance application.

Urban Forestry – One (1) private tree in proximity of the footprint of the new dwelling has been identified for removal. The removal of this tree will require the applicant to obtain a tree removal permit under the Town’s Private Tree Protection By-law No. 5139-19. This permit will require the completion of a Tree Inventory and Protection Plan that demonstrates how all remaining trees (including Town and neighbouring trees within 6m of property lines) will be protected for the duration of the construction. All tree protection measures outlined in the future Tree Inventory and Preservation Plan must be adhered to. 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. A Tree Declaration Form has been signed and submitted by the applicant, confirming that any tree removal will comply with the Town’s Private Tree Protection By-law. Conditions of approval to reflect these requirements have been requested.

Finance – No objections.

Operations – No objections.

Agencies

Niagara Region – No objections.

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 key natural heritage or key hydrologic features as identified in the Niagara Official Plan, the property is not within the Conservation Lands overlay within the Town Official Plan, nor are there any watercourse or wetland features regulated by the Niagara Peninsula Conservation Authority (NPCA) within the subject lands. The applicant has identified that one (1) private tree in proximity to the development footprint will require removal. Conditions have been recommended to obtain the necessary tree removal permits and ensure that protection measures are in place when removals occur.

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-05/25, subject to the recommended conditions, 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

Not applicable.

12. APPENDICES

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

Respectfully submitted:

Prepared by:

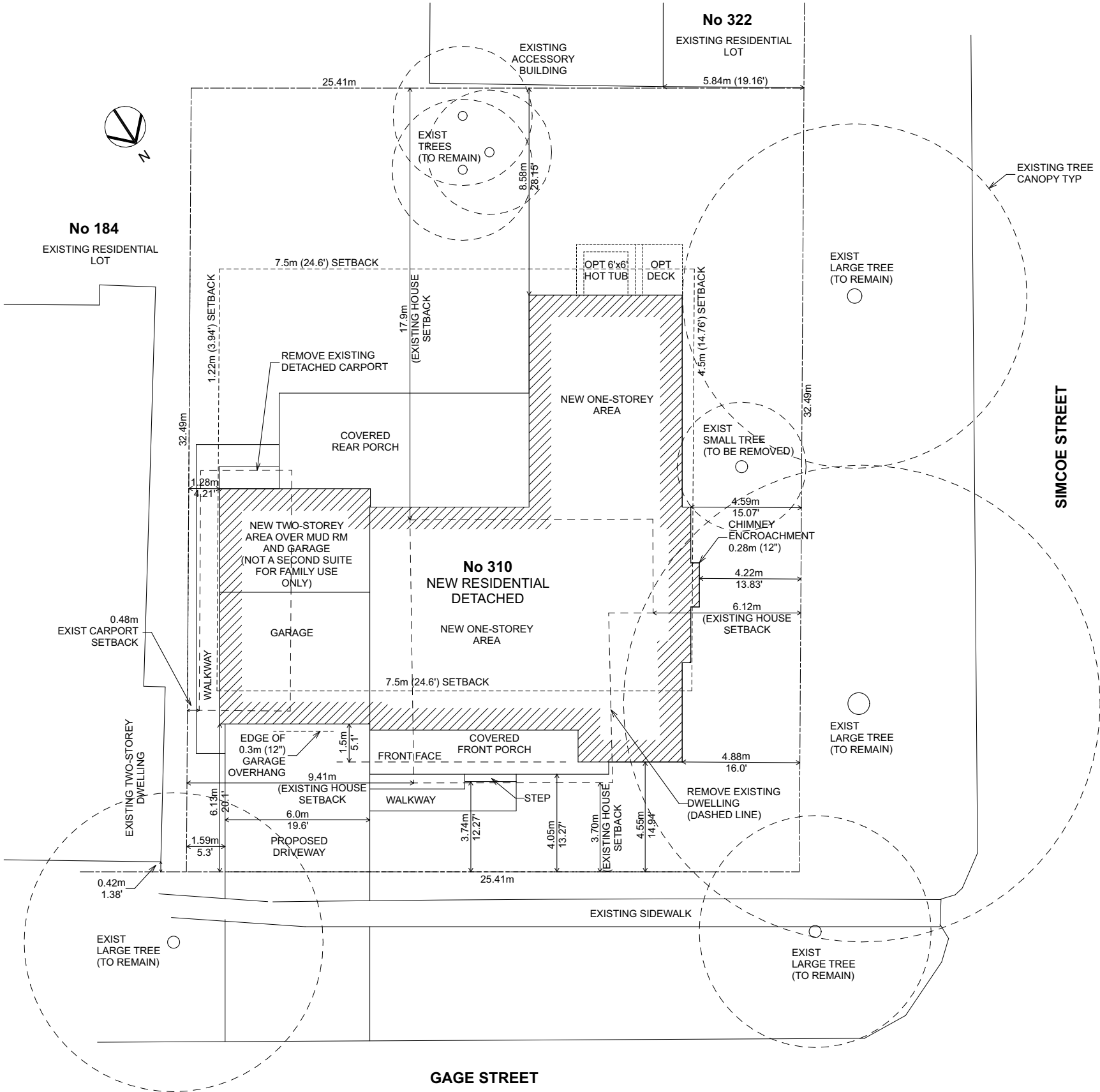


**Connor MacIsaac
Planner II**

Recommended by:



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



SITE PLAN

SCALE: 1:200

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: <div>NEALE RESIDENCE 310 SIMCOE STREET NOTL, ONTARIO</div>		<div>DESIGNS BY SANTY</div> <div>43 Church Street Unit 607 • St Catharines • L2R 7E1 • 905.680.6891 inspired@designsbysanty.com • www.designsbysanty.com</div>	DRAWN BY: SY	SCALE:	DESIGNER BCIN No: 21034	PROJ: 24-12-06
PG TITLE: SITE PLAN FOR MINOR VARIANCE			REV DATE: 2025-03-21	ISSUED FOR: CONSTR	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.			1 OF 3
		DESIGNER NAME: SANTY YEH DESIGNER SIGNATURE: _____				

ZONING INFORMATION

ESTABLISHED RESIDENTIAL (ER) ZONE

MINIMUM DEPTH	: AS EXISTING
MINIMUM LOT FRONTAGE	: AS EXISTING
MINIMUM FRONT YARD	: 7.5 m
MINIMUM GARAGE SETBACK FROM BUILDING FACE	: 1 m
MINIMUM REAR YARD	: 7.5 m
MINIMUM INTERIOR SIDE YARD	: 1.22 m
MAXIMUM EXTERIOR SIDE YARD	: 4.5 m
MAXIMUM COVERAGE	: 33 %
MINIMUM LANDSCAPED OPEN SPACE	: 30 %
MAXIMUM HEIGHT	: 10 m

LOT AREA	: 825.6 m ² (8886.4 sqft)
BUILDING AREA	: 307.5 m ² (3309.4 sqft)
LOT COVERAGE	: 37.3%
LANDSCAPED OPEN SPACE	: 458.0 m ² (4930.0 sqft)
LANDSCAPED COVERAGE	: 55.5 %
HEIGHT	: 9.07 m (29'-9")



NORTH (FRONT) - GAGE STREET



WEST (RIGHT) - SIMCOE STREET



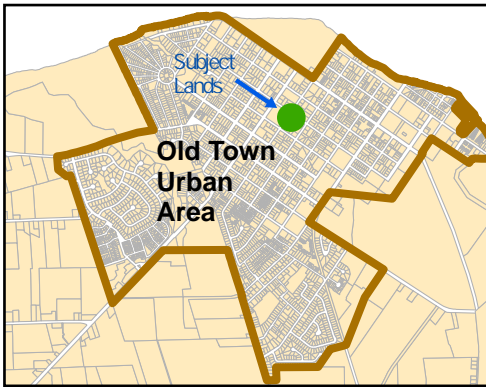
SOUTH (REAR)




EAST (LEFT)

NEALE RESIDENCE - 310 SIMCOE STREET

FLAT ELEVATIONS



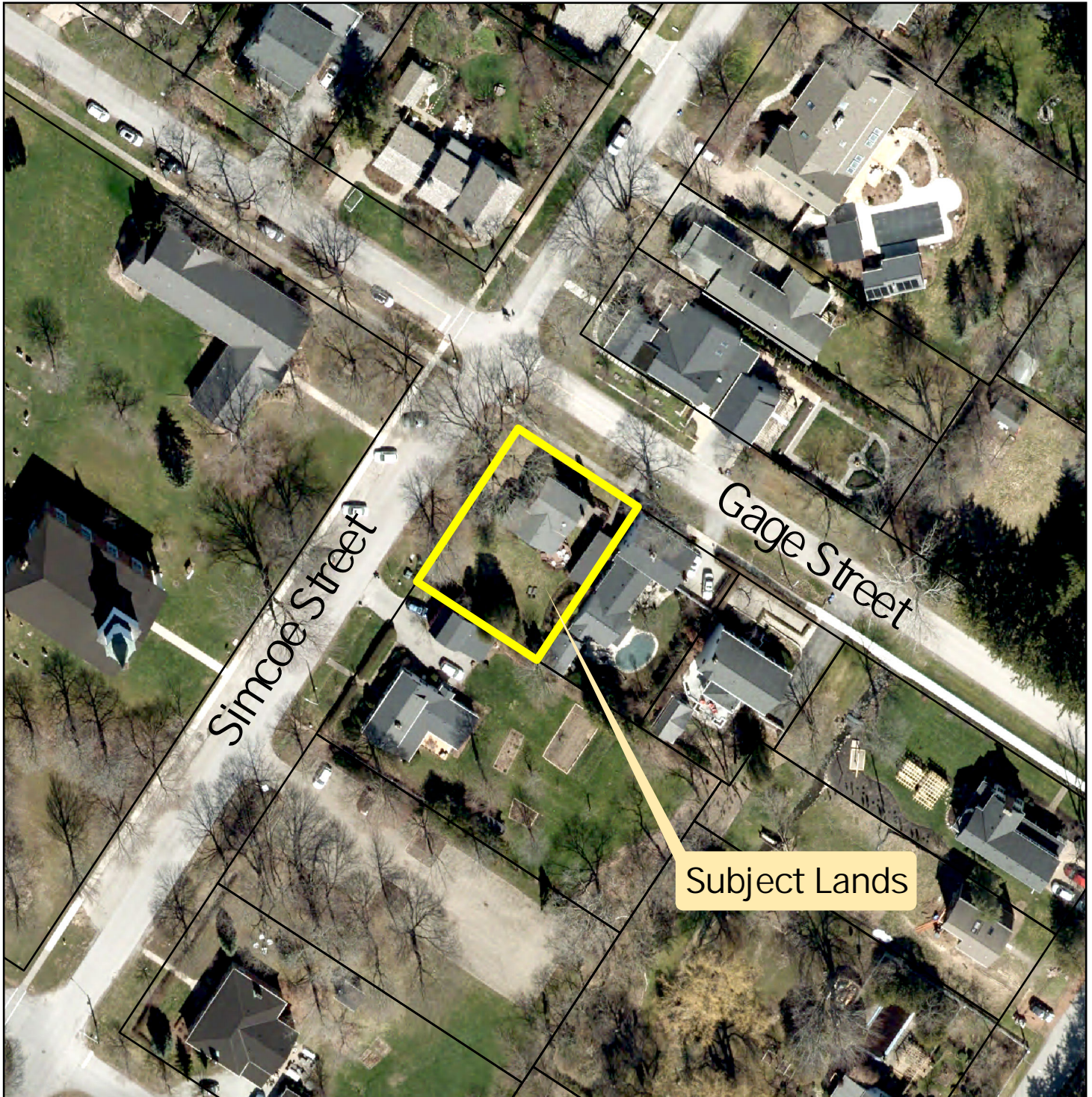
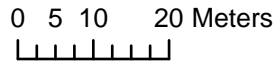
N



Scale: 1:1,000

Map 1: LOCATION MAP

310 Simcoe Street
File No: A-05-2025





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-25-062 **COMMITTEE DATE:** 2025-05-15
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Minor Variance Application A-06/25 – 329 Victoria Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-06/25 for 329 Victoria Street be approved, subject to the following conditions:
 - 1.1.1 That a Stage 1 and 2 archaeological assessment be completed, by a consultant archaeologist licensed by the Ministry of Citizenship and Multiculturalism under the provisions of the Ontario Heritage Act (R.S.O. 1990), on the whole subject lands and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. The results of the Stage 1 and 2 archaeological assessment will determine the need for further studies. 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 all archaeological assessment reports and Ministry Compliance Letters are submitted to the Town, to the satisfaction of the Town;
 - 1.1.2 That the owner/applicant signs and submits the Town's Tree Protection Declaration Form, to the satisfaction of the Town's Urban Forestry Officer; and
 - 1.1.3 That the owner/applicant submits and obtains approval of permit applications for the proposed tree removal from the Town, which may include but not be limited to the completion of a Tree Inventory and Protection Plan. 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's Urban Forestry Officer.

2. PURPOSE

The applicant is proposing alterations to the existing single-detached dwelling on the property, including the construction of a new addition, a new covered front porch, and a new covered rear deck. The applicant is also proposing additions to the currently under-construction detached accessory structure, which includes an additional dwelling unit. In order to facilitate

the development as proposed, the following variances from the provisions the Town's Comprehensive Zoning Bylaw 4316-09, as amended, are being requested:

1. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 4.94 metres for the proposed dwelling addition;
2. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 2.91 metres for the proposed covered front porch; and
3. Maximum accessory structure lot coverage from 8%, as required in the Zoning By-law, to 10% for the proposed additions to the existing accessory structure.

The application drawings are attached as **Appendix I** to this report.

3. BACKGROUND

3.1 Site Description and Proposal

The subject lands are known municipally as 329 Victoria Street, lying on the west side of Victoria Street, north of Centre Street and south of Gage Street, in the urban area of Old Town. The surrounding lands are characterized by residential uses. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 1,226 square metres with 19.25 metres of frontage on Victoria Street. The subject lands contain an existing single-detached dwelling and a detached accessory structure which is currently under construction. The existing single-detached dwelling is shown in **Figure 1**. The dwelling is serviced by municipal water and sanitary connections.



Figure 1 – Existing Single-Detached Dwelling

As shown in **Appendix I**, the applicant is proposing alterations to the existing single-detached dwelling, including additions to the dwelling in line with the existing front yard setback of the dwelling, and an addition to the covered front porch in line with the existing front yard setback of the covered front porch. The proposal creates deficiencies from the Zoning By-law 4316-09, as amended, related to the front yard setback of the new portions of the proposed dwelling addition and covered porch.

A new detached accessory structure with a garage/storage space on the first floor and an additional dwelling unit on the second floor is currently under construction, as shown in **Figure 2**. The proposal creates deficiencies from the Zoning By-law 4316-09, as amended, related to the lot coverage of the reconstructed accessory structure. Following issuance of the building permit for the accessory structure currently under construction, the owner revised the plans to include the proposed additions. The revision to the plans necessitated the requirement for this Minor Variance application to increase the permitted lot coverage for an accessory structure. The accessory structure is serviced by municipal water and sanitary connections.



Figure 2 – Existing Accessory Structure (Under Construction)

3.2 Queen-Picton Heritage Conservation District Study Area

The subject property is located within the Queen-Picton (Old Town) Heritage Conservation District Study Area. At the February 25, 2025 Council Meeting, Council approved enacting the Revised Study Area By-law under Section 40.1 of the *Ontario Heritage Act* with an effective date of March 27, 2025. The Study Area By-law established temporary restrictions on property alterations within the Queen-Picton (Old Town) Heritage Conservation District Study Area for one year, with specific exemptions. All *Planning Act* applications received on or before March 27, 2025, are not subject to the Study Area By-law currently in effect. The Minor Variance application for 329 Victoria Street was submitted on March 27, 2025 and as such, is not subject to the Study Area By-law currently in effect.

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. Are the requested variances minor in nature?

The proposed front yard setback for the dwelling addition will be deficient of the minimum front yard setback required of 7.5 metres, by 2.56 metres, with a proposed setback of 4.94 metres. The proposed front yard setback for the covered porch will be deficient of the minimum front yard setback required of 7.5 metres, by 4.59 metres, with a proposed setback of 2.56 metres.

The requested front yard setbacks of the extended dwelling and covered front porch maintain the same setback as the existing dwelling and covered front porch. Minor Variance application A-2/93, heard by the Committee of Adjustment in January of 1993, permitted the reduced front yard setback of the existing dwelling. Since the Committee of Adjustment's approval of the reduced front yard setback, there have been no demonstrated or known impacts to the streetscape and road allowance associated with the existing setbacks.

The proposed additions to the dwelling and covered front porch are in line with the existing setbacks and are not anticipated to negatively alter the streetscape or character of the area. The location of the building addition and covered porch are not anticipated to result in visual obstruction or impact to the public realm.

The proposed accessory structure lot coverage will exceed the maximum accessory structure lot coverage permitted (8% of the lot area) by 2%, with a proposed accessory structure lot coverage of 10% of the lot area.

The requested increase in lot coverage is attributed to the proposed construction of "open air covered areas" to the accessory structure currently under construction. The overall lot coverage provision (33% of lot area) for the ER zone is not exceeded through this application. The proposed addition to the accessory structure is within the rear yard and will not alter the streetscape or character of the area. It is Staff's opinion that the proposal would not create any additional privacy issues with neighbours, and maintains adequate spaces for amenities, parking, landscaping, and storm water management on the lot.

Staff are of the opinion that the requested variances are considered minor in nature.

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

Regarding the proposed front yard setback for the building addition and covered front porch, the requested variances allow for the additions to maintain the same front yard setback as the existing dwelling and covered porch, and allow for an increased living area. Covered front porches are considered desirable as they allow for a covered amenity space which is weather protected. Staff do not anticipate that the proposal will negatively impact the streetscape of Victoria Street, as the proposal will provide additional covered amenity space at a setback which is consistent with the context of the subject property and neighbourhood.

Regarding the proposed increase in accessory structure lot coverage, the requested increase would permit the construction of "open air covered areas" to the accessory structure currently

under construction. While these covered areas are an addition to the accessory structure, it would not increase the gross floor area. The outdoor covered areas are anticipated to improve the liveability of the additional dwelling unit, providing weather protected amenity space.

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

3. Do the requested variances maintain the general intent and purpose of the By-law?

The subject lands are zoned “Established Residential (ER) Zone” in Zoning By-law 4316-09, as amended. Single-detached dwellings and associated accessory structures, including additional dwelling units, are permitted in this zone.

The intent of the minimum front yard setback is to ensure a relatively uniform setback along the street, as well as to ensure adequate area for amenity space and parking. It is Staff’s opinion that no negative impacts to the subject lands, adjacent properties, public realm or streetscape are anticipated as a result of the requested location of the proposed dwelling addition or covered front porch. The proposed front yard setback is in keeping with the setbacks established within the neighbourhood. The requested variances maintain the character of the ER Zone and of the surrounding neighbourhood.

The intent of the maximum lot coverage for accessory structure(s) is to ensure the accessory nature of the structure(s) to the primary dwelling, avoid overdevelopment of lots, and to maintain adequate space for amenities, parking, landscaping, and stormwater management. The overall lot coverage provision for the ER zone (33% of lot area) is not exceeded through this application, and adequate spaces for amenities, parking, landscaping, and storm water management on the lot is maintained. It is Staff’s opinion that the proposed setback and location of the accessory structure will maintain the accessory nature of the structure, despite the increase in lot coverage, and will not result in overdevelopment of the subject lot.

Therefore, Staff are of the opinion that the requested variances maintain the general intent and purpose of the Zoning By-law.

4. Do the requested variances maintain the general intent and purpose of the Official Plan?

As of March 31, 2025, pursuant to Bill 185 the *Cutting Red Tape to Build More Home Act, 2024*, the *Planning Act* was amended to recognize the Regional Municipality of Niagara as an upper-tier municipality without planning responsibilities. Accordingly, the Niagara Official Plan (“NOP”) has been downloaded to the Town of Niagara-on-the-Lake and other local area municipalities across the Region to implement the policy direction contained therein.

As per the NOP, the subject lands are within the “Urban Built – Up Area.” Section 2.2.1.1 of the NOP encourages opportunities for the integration of gentle density and a mix and range of housing options that consider the character of established residential neighbourhoods. The NOP also states that Local Area Municipalities may establish standards for appropriate infill development in established residential neighbourhoods to reflect the unique scale and character of these areas.

The subject lands are designated “Established Residential” in the Town Official Plan (2017 consolidation, as amended). Single-detached dwellings and associated accessory structures, including additional dwelling units, are permitted 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.

Section 6A (Growth Management), Subsection 4.4 – Urban Design of the Official Plan outlines urban design guidelines in Old Town that require new development to fit within the context of which it is located and be designed in a manner where it is consistent with the land use compatibility criteria of the Official Plan. These criteria direct for development to have a consistent built form, height, massing, and building setbacks as the surrounding area. Official Plan Amendment 78 (Residential Infill and Intensification Policies) requires that infill and intensification development and redevelopment within lands designated “Established Residential” respects and reflects the existing pattern and character of adjacent development.

The proposal does not conflict with the goals and objectives of the Residential designation and is facilitating a permitted use. It is Staff’s opinion that the requested variances would permit the redevelopment of the site in a compatible manner with the surrounding land uses, and promote the maintenance and rehabilitation of the existing housing stock. It is also Staff’s opinion that the proposed covered front porch and building façade are located appropriately, and the setbacks requested are consistent with surrounding properties.

The accessory structure is appropriately located on the subject lands well behind the primary dwelling and, accordingly, it is not anticipated that the proposed increase in lot coverage associated with the proposed additions to the accessory structure would result in incompatibility with neighbouring lands.

The applicant has identified that one private tree is within the development footprint that will require removal. The applicant has identified that removal of this tree is required to complete repairs to the existing foundation as a result of damage from the tree roots. The removal of this tree will require the applicant to obtain a tree removal permit under the Town’s Private Tree Protection By-law No. 5139-19. Conditions have been recommended to obtain the necessary tree removal permits and ensure that protection measures are in place when removals occur.

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

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.

Fire and Emergency Services – No objections.

Heritage – The subject lands are located within the zone of archaeological potential according to the Town and Niagara Official Plans and, therefore, a Stage 1 and 2 archaeological assessment is required. The requirement to complete an archaeological assessment has been included as a condition of the recommended approval for the Minor Variance application.

Finance – No objections.

Operations – No objections.

Urban Forestry – One private tree within the footprint of the addition to the rear of the house has been identified for removal. The removal of this tree will require the applicant to obtain a tree removal permit under the Town's Private Tree Protection By-law No. 5139-19. This permit will require the completion of a Tree Inventory and Protection Plan that demonstrates how all remaining trees (including Town and neighbouring trees within 6m of property lines) will be protected for the duration of the construction. 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. A Tree Declaration Form must be signed and all tree protection measures outlined in the future Tree Inventory and Preservation Plan must be adhered to. Conditions of approval to reflect these requirements have been requested.

Agencies

Niagara Region – No objections.

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 key natural heritage or key hydrologic features as identified in the Niagara Official Plan, the property is not within the Conservation Lands overlay within the Town Official Plan, nor are there any watercourse or wetland features regulated by the Niagara Peninsula Conservation Authority (NPCA) within the subject lands. The applicant has identified that one private tree is within the development footprint of the proposed addition to the rear of the house, and will require removal. Conditions have been recommended to obtain the necessary tree removal permits and ensure that protection measures are in place when removals occur.

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-06/25, 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

- Committee of Adjustment – Minor Variance Application A-2/93 – 329 Victoria Street (January 27, 1993)

12. APPENDICES

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

Respectfully submitted:

Prepared by:



Connor MacIsaac
Planner II

Reviewed by:



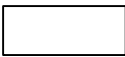
Aimee Alderman, MCIP, RPP
Manager of Development Planning

SITE PLAN NOTE:

INFORMATION FOR THIS SITE PLAN WAS TAKEN FROM A SITE PLAN BY: 'GABRIS ASSOCIATES' JANUARY 2021, FOR A PREVIOUS ISSUED BUILDING PERMIT.

DENOTES PROPERTY LINE

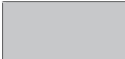
HATCH LEGEND:



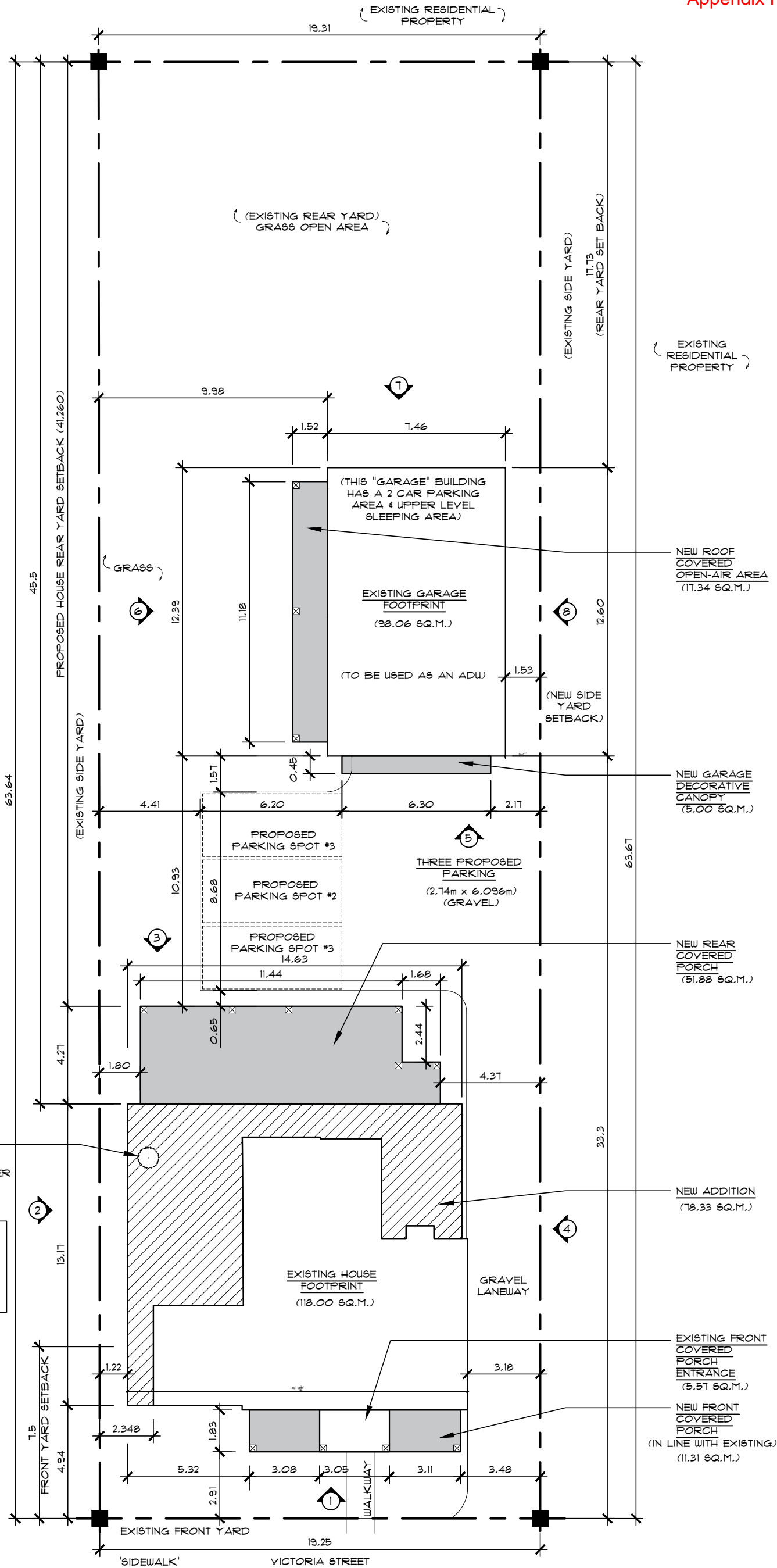
DENOTES EXISTING HOUSE, FRONT COVERED PORCH & GARAGE



DIAGONAL 'HATCH' ON SITE PLAN DENOTES PROPOSED NEW HOUSE ADDITION



SOLID 'HATCH' ON SITE PLAN DENOTES PROPOSED NEW FRONT COVERED PORCH, REAR COVERED PORCH, GARAGE CANOPY & GARAGE OPEN AIR WALKWAY



EXISTING RESIDENTIAL PROPERTY

EXISTING TREE
(TO BE "POTENTIAL" REMOVED AT A LATER DATE)

NOTE:
ANY TREE REMOVAL WILL REQUIRE THE APPROVAL OF THE TOWN'S TREE REMOVAL BY-LAW.

SITE CALCULATIONS: EXISTING

LOT SIZE: 1226.93 SQ.M

LOT COVERAGE ALLOWANCE: 33%

EXISTING HOUSE FOOTPRINT: 118.00 SQ.M.	9.62% LOT COVERAGE
EXISTING FRONT PORCH FOOTPRINT: 5.51 SQ.M.	0.45% LOT COVERAGE
EXISTING GARAGE FOOTPRINT: 98.06 SQ.M.	7.99% LOT COVERAGE

SITE CALCULATIONS: PROPOSED

HOUSE ADDITION: 78.33 SQ.M.	6.38% LOT COVERAGE
FRONT COVERED PORCH: 11.31 SQ.M.	0.92% LOT COVERAGE
REAR COVERED PORCH: 51.88 SQ.M.	4.23% LOT COVERAGE
GARAGE CANOPY: 5.00 SQ.M.	0.41% LOT COVERAGE
GARAGE OPEN AIR WALKWAY: 17.34 SQ.M.	1.41% LOT COVERAGE

LOT COVERAGE CALCULATIONS:

GARAGE:	120.43 SQ.M.	9.81%
TOTAL HOUSE:	196.17 SQ.M.	16%
TOTAL COVERED PORCHES:	63.19 SQ.M.	5.15%
TOTAL LOT COVERAGE:	379.79 SQ.M.	30.96%

LANDSCAPE CALCULATION

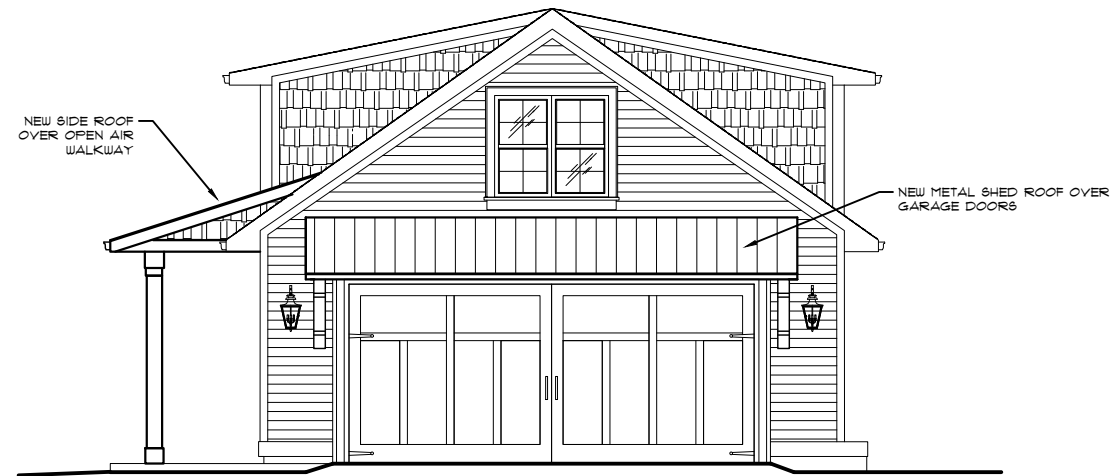
OPEN SPACE: 841.44 SQ.M.	31.4% LOT COVERAGE
--------------------------	--------------------

ZAKINTHINOS RESIDENCE

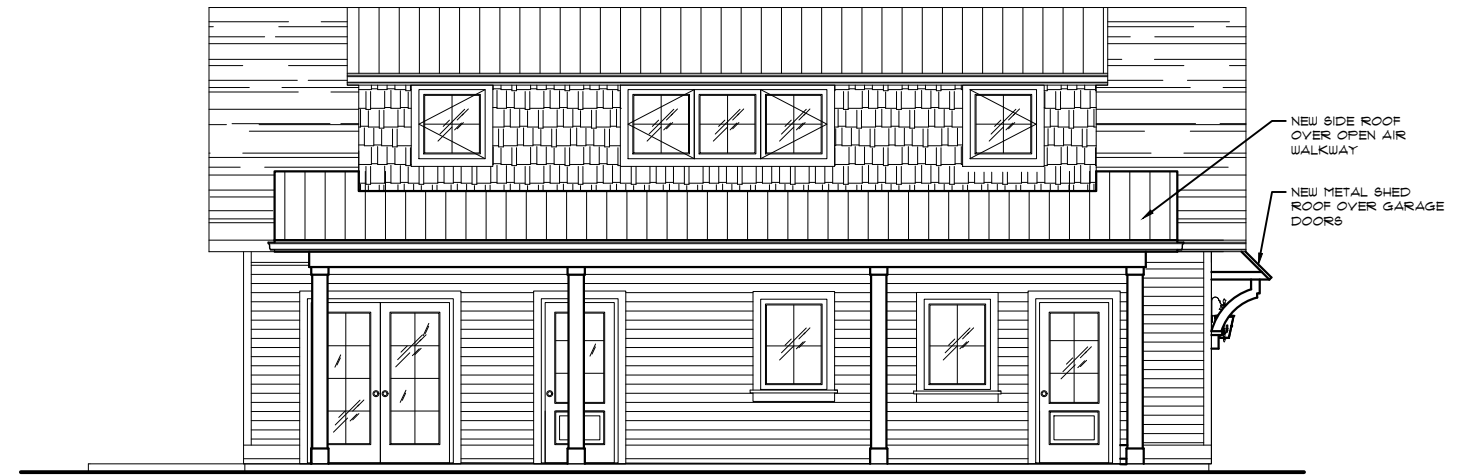
SITE PLAN (329 VICTORIA STREET, N.O.T.L.)

SCALE: NOT TO SCALE

MARCH 26, 2025



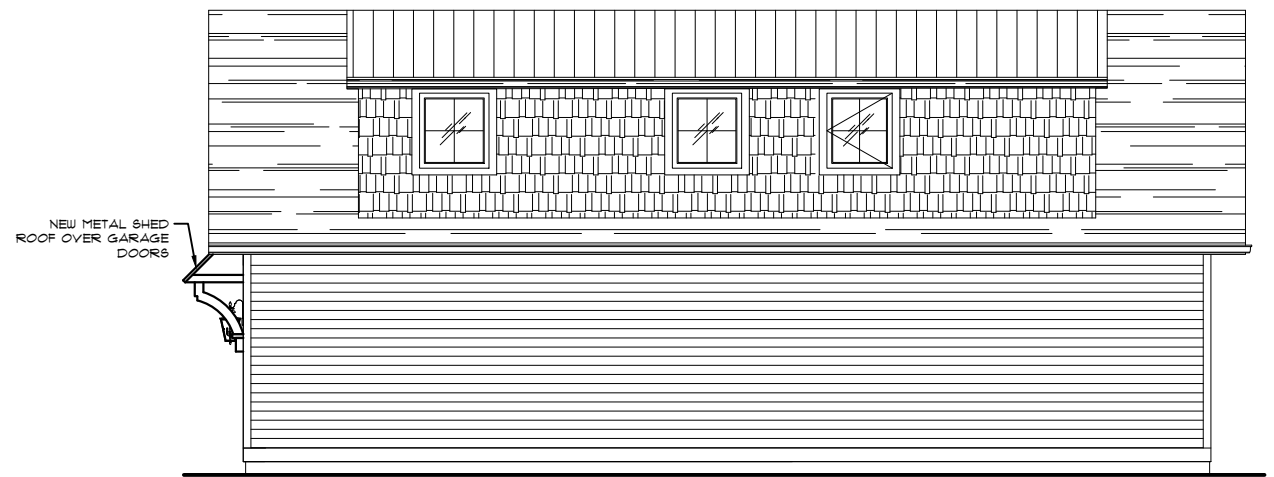
WEST ELEVATION
SCALE: 1:100



SOUTH ELEVATION
SCALE: 1:100



EAST ELEVATION
SCALE: 1:100



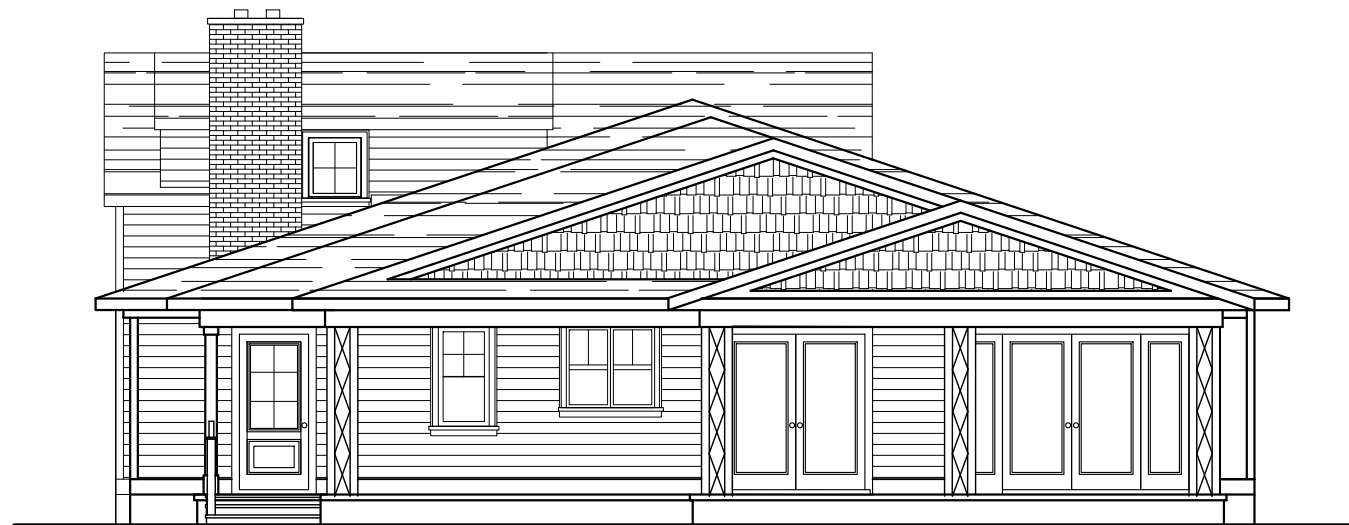
NORTH ELEVATION
SCALE: 1:100



○ EAST ELEVATION
SCALE: 1:100



○ SOUTH ELEVATION
SCALE: 1:100



○ WEST ELEVATION
SCALE: 1:100



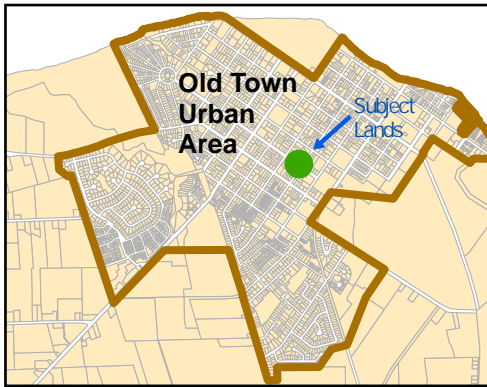
○ NORTH ELEVATION
SCALE: 1:100

ZAKINTHINOS RESIDENCE

HOUSE EXTERIOR ELEVATIONS (329 VICTORIA STREET, N.O.T.L.)

SCALE: 1:100

MARCH 17, 2025



Map 1: LOCATION MAP

329 Victoria Street
File No: A-06-2025

N

Scale: 1:1,000

0 5 10 20 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-25-069

COMMITTEE DATE: 2025-05-15

DUE IN COUNCIL: N/A

REPORT TO: Committee of Adjustment

SUBJECT: Minor Variance Application A-07/25 – 19 Kenmir Avenue

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-07/25 for 19 Kenmir Avenue be approved, subject to the following condition:

- 1.1.1 That the owner/applicant submits and obtains approval from the Town for the removal or relocation of the Town tree fronting the subject property, including any compensation, to the satisfaction of the Town's Urban Forestry Officer.

2. PURPOSE

The applicant is proposing the construction of a new two-storey single-detached dwelling with an attached garage. In order to facilitate the development as proposed, the following variance from the provisions of Town Zoning By-law 4316-09, as amended, is requested:

1. Maximum lot coverage from 33%, as required in the Zoning By-law, to 36.5% for the proposed single-detached dwelling and covered rear porch.

The application drawings are attached as **Appendix I** to this Report.

3. BACKGROUND

3.1 Site Description and Proposal

The subject lands are known municipally as 19 Kenmir Avenue, situated on the south side of Kenmir Avenue, between Highland Lane and Tanbark Road in the St. Davids urban area. The location of the subject lands is shown on **Appendix II** to this report.

The subject lands have an approximate area of 529.35 square metres with 15.29 metres of frontage on Kenmir Avenue. The subject lands are currently vacant and are serviced by municipal water and waste water services. The surrounding lands are characterized by single-detached and townhouse residential dwellings.

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 variance seeks to increase the maximum allowable lot coverage to permit the construction of a new two-storey single-detached dwelling with a covered rear yard amenity deck.

The increase in lot coverage primarily results from the covering of the rear yard deck, which makes up approximately 3.7% in overall lot coverage. Staff is of the opinion that the requested variance will not have impacts on the streetscape or the surrounding residences, as the rear yard deck is screened from the street and is substantially setback from the abutting lands.

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 owner has advised that the requested increase in lot coverage is required to accommodate the covered deck in the rear yard. The increase in lot coverage is desirable for the dwelling as it will allow for greater use of the patio during the summer months. Staff are of the opinion that the requested variance will maintain a scale of development that is desirable for the lands and compatible with the adjacent properties.

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

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

The subject lands are zoned "St. Davids Community Zoning District – Residential (R1-11)" in Zoning By-law 4316-09, as amended. A single-detached dwelling is a permitted use.

The requested variance is considered to maintain the general intent and purpose of the Zoning By-law as single-detached dwellings are a permitted use, and the proposed dwelling will maintain the same character of the neighbourhood. The proposed dwelling is consistent with the overall built-form of the neighbourhood, and the scale of the dwelling is compatible with adjacent residential lands.

As a result, Staff are of the opinion that 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?

As of March 31, 2025, pursuant to Bill 185 the *Cutting Red Tape to Build More Home Act, 2024*, the *Planning Act* was amended to recognize the Regional Municipality of Niagara as an upper-tier municipality without planning responsibilities. Accordingly, the Niagara Official Plan ("NOP") has been downloaded to the Town of Niagara-on-the-Lake and other local area municipalities across the Region to implement the policy direction contained therein.

The subject lands are designated and Delineated Built-up Area in the Niagara Official Plan, 2022, as well as "Low Density Residential" and "Built-up Area" in the Town of Niagara-on-the-

Lake Official Plan, 2017 Consolidation, as amended.

The requested variance is considered to maintain the general intent and purpose of the Official Plan as the proposal is generally consistent in built form, scale and massing with existing development and the character of the area. The application is considered to support residential policies in Section 9.2 and intensification policies in Section 6A(4) of the Official Plan.

Section 7.3 of the St. Davids Urban Design Guidelines provides guidance on new residential built form. Staff recognize that the development will exceed the permitted lot coverage of 33%. When considering lot coverage, the Urban Design Guidelines recommend consideration regarding minimum rear yard amenity areas. Staff note that the rear yard amenity area of the proposed dwelling greatly exceeds the minimum size of 50 square metres for single-detached dwellings, as recommended in the Guidelines, while exceeding the permitted lot coverage. Staff are of the opinion that the increased lot coverage maintains the intent of the St. David Urban Design Guidelines.

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.

Finance – No objections.

Fire and Emergency Services – No objections.

Heritage – No objections

Operations – No objections.

Urban Forestry – One (1) boulevard tree may be impacted by the construction works required for the proposed dwelling. A condition has been requested.

Agencies

No comments.

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

There are no key natural heritage or key hydrologic features as identified in the Niagara Official Plan, the property is not within the Conservation Lands overlay within the Town Official Plan, nor are there any watercourse or wetland features regulated by the Niagara Peninsula Conservation Authority (NPCA) within the subject lands. The removal of one (1) tree along the front of the property will be required to accommodate the new driveway, which will require approval from the Director of Public Works and compensation from the owner. A condition has been included to this effect.

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-07/25, subject to the recommended condition, 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. APPENDICES

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

Respectfully submitted:

Prepared by:

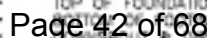


Alex Bokestyn
Planner II

Recommended by:



Aimee Alderman, MCIP, RPP
Manager of Development Planning





General Notes

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

CHRISTIAN VENDITTI
NAME

SIGNATURE

42354
BCIN

REGISTRATION INFORMATION
Required unless design is exempt under 2.17.4.1. of the building code

CORE DRAFTING SERVICES
FIRM NAME

6	REVISED	APR 24 2025
5	REVISED	FEB 4 2025
4	REVISED	JAN 24 2025
3	REVISED	DEC 11 2024
2	ISSUED FOR REVIEW	OCT 11 2024
1	ISSUED FOR REVIEW	APR 20 2024
No.	Revision/Issue	Date

CORE

design-drafting

Building

residential | commercial | industrial

E-mail: coreinfo@live.ca Phone: 289-821-1870

Project Name and Address

NEW
RESIDENCE

9 KENMIR AVE.
ST. DAVIDS, ON

Dwg Title

FLOOR PLANS

Date

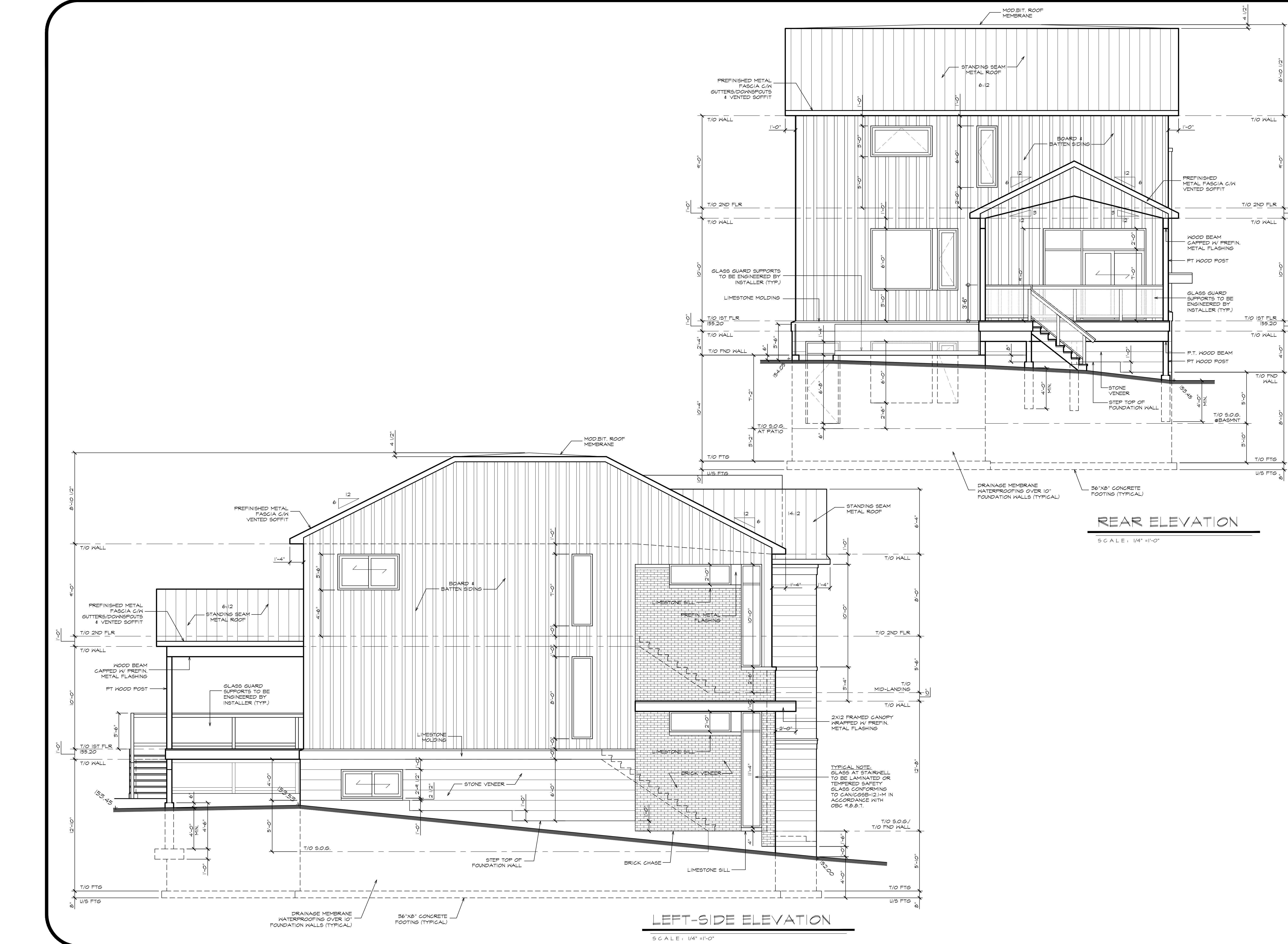
APR 2024

Scale

1/4" = 1'-0"

Sheet

A3



General Notes		
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		
NAME	SIGNATURE	BCIN
CHRISTIAN VENDITTI		42354
REGISTRATION INFORMATION Required unless design is exempt under 2.17.4.1. of the building code		
CORE DRAFTING SERVICES		
FIRM NAME		
BCIN		

6	REVISED	APR 24 2025
5	REVISED	FEB 4 2025
4	REVISED	JAN 24 2025
3	REVISED	DEC 11 2024
2	ISSUED FOR REVIEW	OCT 11 2024
1	ISSUED FOR REVIEW	APR 20 2024
No.	Revision/Issue	Date

residential | commercial | industrial
E-mail: core@coredd.ca Phone: 789-821-1870

Project Name and Address

NEW
RESIDENCE
9 KENMIR AVE.
ST. DAVIDS, ON

Dwg Title

FLOOR PLANS

Date

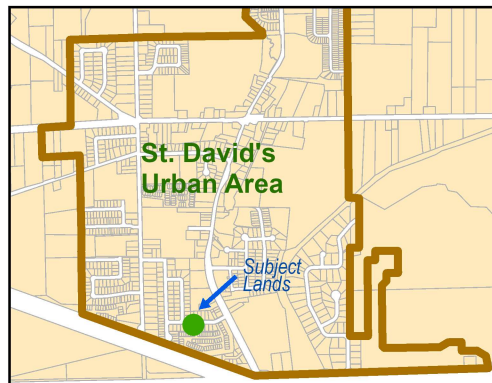
APR 2024

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1/4" = 1'-0"

Sheet

A4



N

Scale: 1:1,000

Map 1: LOCATION MAP

19 Kenmir Avenue
File No: A-07-2025

0 5 10 20 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-25-066 **COMMITTEE DATE:** 2025-05-15
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Consent Application B-04/25 and Minor Variance Application A-08/25 – 767
Concession 2 Road

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-04/25 be approved, subject to the recommended 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 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 2 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 2, has been carried out, the documentation to be provided within two years of issuance of the consent certificate;
 - 1.1.4 That the conditions, restrictions or covenants specified by TransCanada PipeLines Limited (TCPL) shall be registered against title (by agreement) in relation to the "Lands" by way of application to register conditions, restrictions or covenants as applicable, pursuant to the Land Titles Act, or any amendments thereto;

1.1.5 That the Town Operations Department be provided with a copy of the deposited reference plan; and,

1.1.6 Dedication of 3.05 metre road allowance widening fronting Part 3 of the proposed severance, to the satisfaction of the Director of Operations.

1.2 Minor Variance Application A-08/25 for 767 Concession 2 Road be approved, subject to the recommended condition:

1.2.1 That the owner/applicant obtain final approval for Consent Application B-04/25.

2. EXECUTIVE SUMMARY

Staff have received a Consent Application (B-04/25) submitted under Section 53(12) of the *Planning Act* proposing a minor boundary adjustment by way of conveying the rear portion of 767 Concession 2 Road (Part 2) to 745 Concession 2 Road. A Minor Variance Application (A-08/25) is required to address the lot depth deficiency of Part 1 as a result of the boundary adjustment application.

Town staff has reviewed the Applications and consider them to meet applicable legislation and policies subject the recommended conditions.

3. PURPOSE

The application proposes a minor boundary adjustment by severing Part 2 from Part 1 (municipally known as 767 Concession 2 Road), and merging Part 2 with Part 3 (municipally known as 745 Concession 2 Road). Part 1 is to be retained for continued rural residential purposes; the existing orchards on Part 2 will be continued to be farmed. The boundary adjustment is being requested in order to keep the agricultural lands in the family as Part 1 is being sold.

In order to facilitate the minor boundary adjustment as proposed, the following variance from the provisions of Town Zoning By-law 500A-74, as amended, is requested:

1. Minimum lot depth of 60.96 metres, as required in the Zoning By-law, to 58.40 metres for the proposed new lot (Part 1).

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 767 Concession 2 Road, located on the eastern side of Concession 2 Road, situated between Line 6 Road and Line 7 Road, and are serviced by municipal water and a private septic system.

Part 1 has an area of 4,046.9 m² (0.40 hectares) and has approximately 69.3 metres of frontage on Concession 2 Road, and contains a single-detached dwelling and an accessory building.

Part 2 has an area of 103, 486.2 m² (10.34 hectares) and has approximately 96 metres of frontage on Concession 2 Road, and supports an existing agricultural operation (orchards). There is one accessory structure (shed) on the property.

Part 3 has an area of 1,613 m² and has approximately 42.33 metres of frontage along Concession 2 Road, and consists of an existing single-detached dwelling.

Part 4 has an area of 129 m² and will be conveyed to the Town for the purposes of a road widening along Concession 2 Road.

The subject lands are encumbered by an existing pipeline easement that bisects the northwest corner of Part 2.

4.2 Concurrent Application

Concurrent Minor Variance Application A-08/25 was submitted to address a minimum lot depth deficiency resulting from the proposed minor boundary adjustment associated with Consent Application B-04/25.

5. DISCUSSION / ANALYSIS

5.1 Consent 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" in the Town's Official Plan (2017 consolidation, as amended).

The PPS permits lot adjustments in prime agricultural areas for legal or technical reasons, which includes 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 would not result in the creation of a new lot. The agricultural lands at Part 2 would be merged with the existing rural residential lot at Part 3 (municipally known as 745 Concession 2 Road). The lands shown as Part 1 will continue be used for rural residential purposes, and the lands shown as Part 3 will continue to support a residential dwelling. Part 2 will continue to support active agricultural operations.

The boundary adjustment would result in a lot area of approximately 0.4 hectares for Part 1, and 10.72 hectares for Parts 2 and 3 combined. The proposed boundary adjustment will not negatively impact the agricultural functionality of the subject property, and no new lots will be created.

Town staff consider the proposed boundary adjustment to be minor with respect to area and impact, and complies with the consent policies and agricultural objective as set out in the Official Plan. The proposed boundary adjustment will not affection ability to farm the subject lands, now or in generations to come.

5.2 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 required variance minor in nature?

The newly reconfigured lot (Parts 1 and 3) would not alter the streetscape, pose adverse impacts to surrounding lands, nor hinder the existing agricultural potential on the subject or adjacent lands. The requested variance in lot depth will allow for the lot lines to contain the rural residential use, while ensure no crops are removed to support the boundary adjustment.

Therefore, Staff consider the 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 lot depth variance will ensure that additional agricultural land will not be taken out of production on Part 2. An area of approximately 10 ft is required to allow for a turning radius of farm vehicles to maintain crops on the Part 2. Further, the reduced lot depth will ensure that no lands are being removed from agricultural production on Part 2 to accommodate the needed turning area.

Staff are of the opinion that the proposed reduction in lot depth is appropriate considering it will provide adequate turning area for agricultural vehicles on Part 2.

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

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

The subject lands are zoned "Rural (A) Zone" in Zoning By-law 500A-74, as amended. A single-detached dwelling and agricultural uses are permitted.

The existing dwelling and accessory buildings/structures on the subject property meet the required setbacks and other provisions of the Rural (A) Zone. The requested variance will allow for continued support for agriculture and will not adversely impact land use compatibility issues; therefore, staff consider the variance to 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 Specialty Crop Area in the Niagara Official Plan (2022) and the Greenbelt Plan (2017) and "Agricultural" in the Town Official Plan (2017 Consolidation, as amended). The variance does not conflict with the goals and objectives of the Agricultural designation identified in the Official Plan. The lot configuration is not anticipated to have any impact on the viability of surrounding agricultural uses. As a result, the variance is considered to maintain the general intent and purpose of the Official Plan.

5.1 Town, Agency and Public Comments

The applications were 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 objection.

Finance – No objection.

Fire & Emergency Services – No objection.

Operations – A road allowance widening dedication has been requested as a condition of consent.

Agencies

Trans Canada Pipeline – No objection, condition requests the applicant to register any , , restrictions, conditions, or covenants specified by TransCanada PipeLines Limited (TCPL) against title (by agreement).

Hydro One – No objection.

Niagara Region – No objection.

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 Minor Variance and/or conditions.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

No vegetation will be impacted by the Boundary Adjustment of the Minor Variance Application

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 through 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-04-25 and Minor Variance Application A-08/25 for 767 Concession 2 Road, subject to the recommended conditions, as the application meets the *Planning Act* requirements, is consistent with the PPS, and conforms with the Greenbelt Plan, Niagara Official Plan, and the Town Official Plan.

12. APPENDICES

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

Respectfully submitted:

Prepared by:

A handwritten signature in cursive script, appearing to read 'Alex Boekestyn'.

**Alex Boekestyn,
Planner II**

Recommended by:

A handwritten signature in cursive script, appearing to read 'Aimee Alderman'.

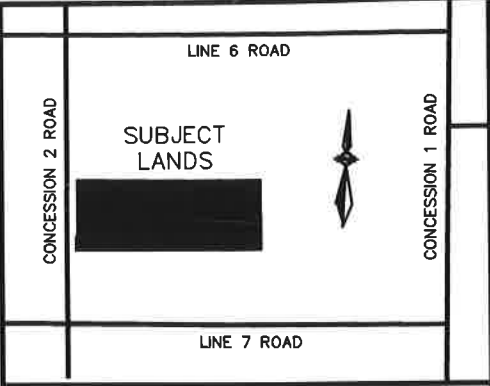
**Aimee Alderman, MCIP, RPP
Manager of Development Planning**

AREA SCHEDULE	
DESCRIPTION	AREA (m²)
PART 1	4,046.9
PART 2	103,486.2
PART 3	1,613.0
PART 4	129.0

PRELIMINARY SKETCH TO ACCOMPANY AN APPLICATION UNDER THE PLANNING ACT
PART OF TOWNSHIP LOT 37
(GEOGRAPHIC TOWNSHIP OF NIAGARA)
TOWN OF NIAGARA-ON-THE LAKE
REGIONAL MUNICIPALITY OF NIAGARA



APRIL 4, 2025 O.L.S.
BRENT LAROCQUE
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



KEY PLAN
NOT TO SCALE

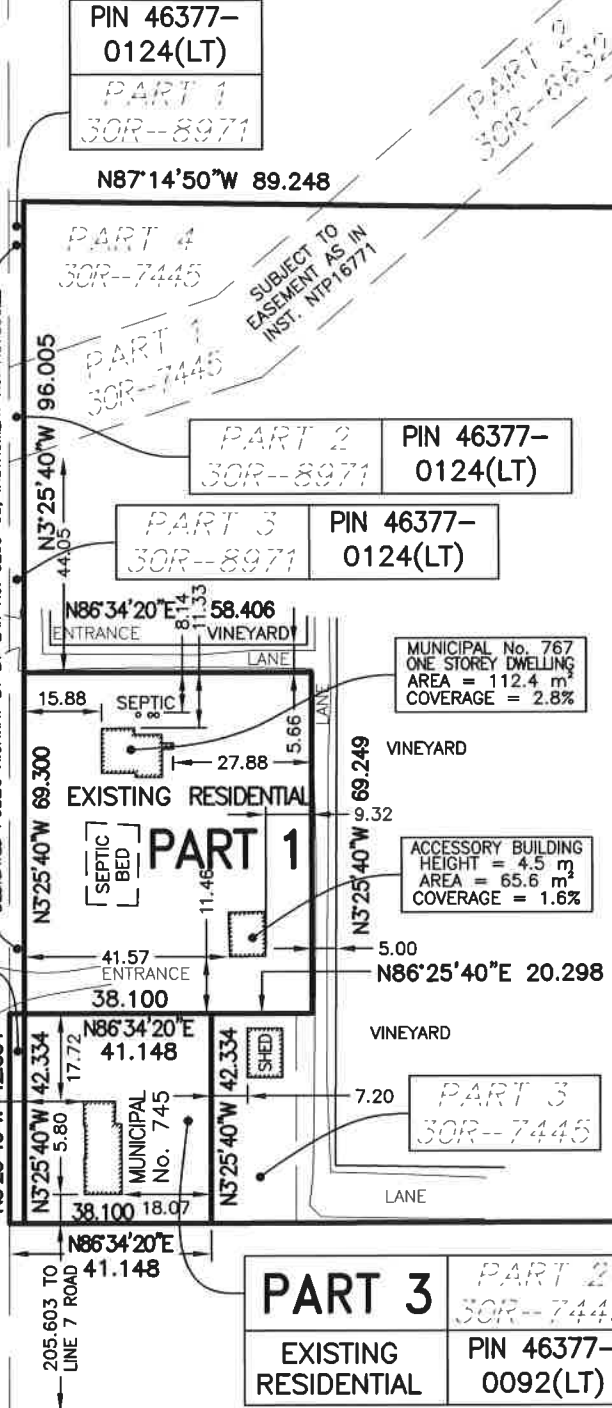
(AS LOCALLY KNOWN)
(ROAD ALLOWANCE BETWEEN TOWNSHIP LOTS 37 & 56)
(PUBLIC TRAVELLED ROAD, VARIOUS WIDTHS)

CONCESSION 2 ROAD

PART 4

PIN 46377-0076(LT)

DEDICATED PUBLIC HIGHWAY BY BY-LAW No. 3208-98, INSTRUMENT No. R0739022



EXISTING AGRICULTURAL

PIN 46377-0087(LT)

TOWNSHIP LOT 36

PIN 46377-0318(LT)

EXISTING AGRICULTURAL

PART 5, 30R--7445

PIN 46377-0126(LT)

PART 2

TOWNSHIP LOT 37

N3°40'40"W 101.651

PIN 46377-0093(LT)

LOT 37

EXISTING

AGRICULTURAL

PART 6, 30R--7445

PIN 46377-0125(LT)

TOWNSHIP

N3°47'10"W 101.672

N86°25'40"E 377.912

PIN 46377-0094(LT)

TOWNSHIP LOT 37

N86°59'E 117.235

PIN 46377-0096(LT)

PIN 46377-0097(LT)

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.

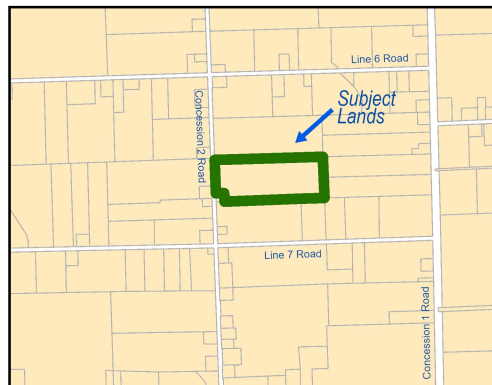
© RICHARD LAROCQUE LIMITED
No person may copy, reproduce or alter this plan in whole or in part without the written permission of RICHARD LAROCQUE LIMITED

DRAWN BY:
D.B.

CHECKED BY:
B.L.

DATE:
APR. 4, 2025

FILE: 2024-097
DWG. FILE: 2024-097-02



Scale: 1:4,000

Map 1: LOCATION MAP



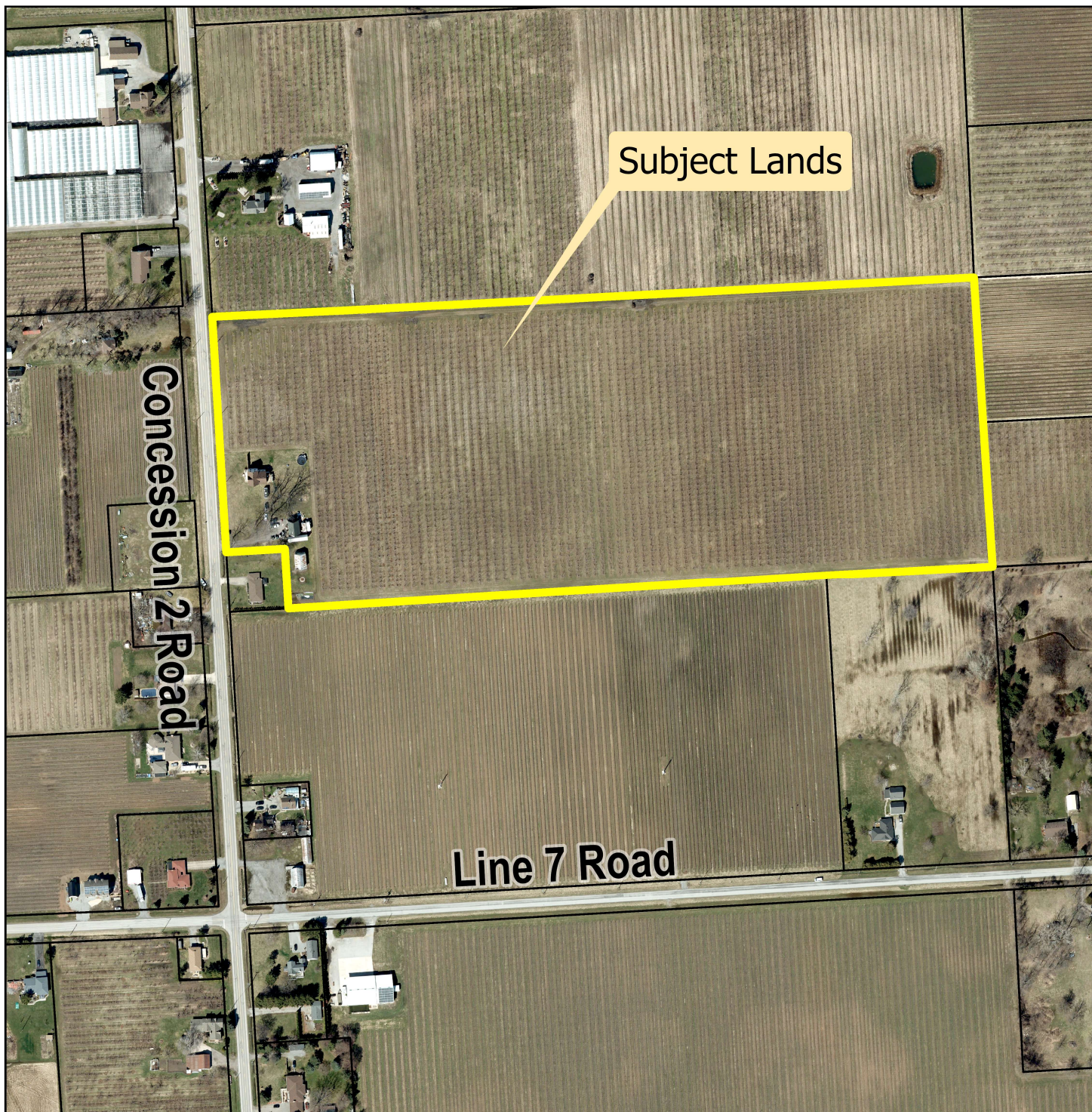
767 Concession 2 Road

File No: A-08-2025 & B-04-2025

0 25 50 100 Meters



NiagaraLake
-on-the-
EST. 1781





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-25-063 **COMMITTEE DATE:** 2025-05-15
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Consent Application B-05/25 – 944 Concession 1 Road

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-05/25 for the severance of the rural residential lot known as 944 Concession 1 Road (Part 1) as a surplus to a consolidated farming operation, 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. merging of Part 2 with 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;
 - 1.1.3 That the owner/applicant obtains approval in the form of a municipal entrance permit from the Town's Operations Department for the proposed driveway on Part 2 providing access to Concession 1 Road, to the satisfaction of the Director of Operations;
 - 1.1.4 That the owner/applicant, at their own expense, enter into a reapportionment agreement for assessment of future maintenance of the municipal drain, subject to the approval of the Town's Drainage Superintendent; and,
 - 1.1.5 That the Town Operations Department be provided with a copy of the deposited reference plan.

2. EXECUTIVE SUMMARY

Staff have received a consent application submitted under Section 53(12) of the *Planning Act*. The application proposes to sever a residence surplus to a farming operation as a result of a

farm consolidation. 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 the creation of one new rural residential lot known municipally as 944 Concession 1 Road (Part 1) as a residence surplus to a farming operation as a result of farm consolidation. Part 1 is proposed to have an area of 4,670.0 square metres (0.467 hectares), a lot frontage of 76.87 metres, and a lot depth of 60.96 metres. The retained agricultural lot (Part 2) will have an area of 23,660.1 square metres (2.36 hectares), a lot frontage of 8.0 metres, and lot depth of 336.25 metres, and will be merged with the adjacent agricultural lot known municipally as 1008 Concession 1 Road (Part 3), which has a lot area of 92,955.6 square metres (9.29 hectares), a lot frontage of 204.58 metres on Concession 1 Road, and lot flankage of 292.45 metres on Line 5 Road.

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 944 Concession 1 Road, located on the west side of Concession 1 Road, north of Line 6 Road and south of Line 5 Road. The location of the subject lands is shown on **Appendix II** to this report.

The applicant is proposing the severance of Part 1 (944 Concession 1 Road) as a residence surplus to a farming operation as a result of farm consolidation. The rural residential lot is proposed to have an area of approximately 0.467 hectares (1.15 acres) and a frontage of 76.87 metres on Concession 1 Road. Part 1 currently contains an existing one-storey single-detached dwelling and an associated residential accessory building. The existing dwelling on Part 1 is serviced by municipal water and a private septic system.

Part 2, which contains the existing agricultural operation associated with 944 Concession 1 Road, is proposed to have an area of approximately 2.36 hectares (5.8 acres) and a frontage of 8.00 metres on Concession 1 Road. There are no buildings or structures on Part 2.

The applicant proposes to consolidate the retained agricultural lands comprising of Part 2, with the adjacent agricultural lands known municipally as 1008 Concession 1 Road, being Part 3. Part 3 has a lot area of approximately 9.29 hectares (22.9 acres), a lot frontage of 204.58 metres on Concession 1 Road, and lot flankage of 292.45 metres on Line 5 Road. There is an existing dwelling on Part 3, which is serviced by municipal water and a private septic system. The new consolidated agricultural lot is proposed to be 11.65 hectares (28.78 acres), with farm vehicle access provided through the existing frontage on Concession 1 Road and flankage on Line 5 Road associated with Part 3, and the new Part 2 frontage on Concession 1 Road.

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) designates the subject lands as being within a "Prime Agricultural Area." The Greenbelt Plan 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 (NOP) and "Agricultural" in the Town's Official Plan (2017 consolidation, as amended).

Section 4.3.3 of the PPS, Section 4.6.1(f) of the Greenbelt Plan, Section 4.1.5.2 of the NOP, and Section 7.4(4)(e) of the Town's Official Plan permit the severance of a residence surplus to a farming operation as a result of a farm consolidation, subject to criteria identified within the respective planning documents.

The following is a summary of relevant policies from the aforementioned planning documents permitting the severance of a surplus farm dwelling as a result of farm consolidation:

- The residential use must have existed before the Greenbelt Plan came into effect (December 16, 2004);
- The surplus farm dwelling must be habitable;
- The severance must be limited to a minimum lot size needed to accommodate the use, including appropriate sewage and water services, which the Region has determined to be 1 acre;
- A new dwelling is prohibited in perpetuity on the remaining farmland;
- The new residential lot is located to minimize the impact of the remaining farm operation;
- The owner must operate an existing farm within the Town of Niagara-on-the-Lake; and
- The new lot must comply with the Minimum Distance Separation Formulae

A review of the proposed Consent application B-05/25 in consideration of the applicable policies is provided below.

The residential use must have existed before the Greenbelt Plan came into effect (December 16, 2004)

The applicant has noted that the existing dwelling on Part 1 was constructed in approximately 1970. Aerial imagery shows that the dwelling on Part 1 has existed since at least 2000, demonstrating that the dwelling was constructed prior to the Greenbelt Plan coming into effect in 2004.

The surplus farm dwelling must be habitable

Staff consider the existing dwelling on Part 1 to be habitable based on visual observation and given that it is currently being occupied, as indicated by the applicant.

The severance must be limited to a minimum lot size needed to accommodate the use, including appropriate sewage and water services

The PPS and Greenbelt Plan require that a new lot created through a surplus farm residence consent be limited to the minimum size need to accommodate the residential use and appropriate sewage and water services. The NOP specifies that a new lot created through a surplus farm residence consent is required to be at least 0.4 hectares, in addition to any additional land required to support appropriate sewage and water services, to a maximum of 1 hectare.

Part 1 is proposed to be 0.467 hectares (1.15 acres) in area, which is in general conformity with the area requirement of 1 acre, per the NOP. The intent of the lot size requirement is to limit impacts to the farming operation, while ensuring there is enough useable area on the lot to support a replacement septic system in the future, when required.

Regional Private Servicing Staff completed an inspection of the existing sewage system on Part 1. Regional staff have noted that the proposed lot (Part 1) meets the minimum 1-acre requirement under the Region's Private Servicing By-law; however, the parcel has limited usable area available for a potential future replacement septic system. As such, the applicant has been advised that tertiary treatment may be required to support future servicing needs on Part 1. As no changes are proposed to the existing dwelling or accessory building, Regional staff have no objections to the proposed application from a private servicing perspective.

Therefore, Town Staff and Regional Staff consider the size of the proposed residential lot to be in conformity with the NOP lot size requirements.

A new dwelling is prohibited in perpetuity on the remaining farmland

As a condition of this consent, the retained agricultural portion of the lot (Part 2), is to be merged with the abutting parcel, (Part 3) having an area of approximately 9.29 hectares (22.97 acres). As there is an existing single-detached dwelling located on Part 3, staff are satisfied that this merger will prohibit further residential development of the agricultural portion of the lot, ensuring no further fragmentation of the agricultural operation.

The new residential lot is located to minimize the impact of the remaining farm operation

Section 21.2(9) of the Town's Official Plan directs that lot lines shall avoid creating irregular boundaries where possible and, where agricultural lands are affected, avoid creating a lot pattern which would make it difficult to farm. The proposed boundaries of Part 1 are considered regular, as the lot is rectangular in shape, and reflects the area of the existing dwelling. The proposed lot lines are intended to minimize conflicts with the abutting farming operations, providing sufficient space for farming operations. The severance of Part 1 is not anticipated to result in impacts to farming Part 2, and no lands are proposed to be removed from agricultural production.

The owner must operate an existing farm within the Town of Niagara-on-the-Lake

The Surplus Farm Dwelling Information Form indicates that the owner of the subject lands owns and/or operates six (6) other agricultural parcels within the Town and in close proximity to the subject lands, including 1008 Concession 1 Road (Part 3), which the retained agricultural lands (Part 2) are proposed to be merged with. The owner has also confirmed that they have a primary residence on a separate property within the Town. The owner wishes to consolidate the agricultural lands associated with 944 Concession 1 Road with their agricultural operation, including the adjacent agricultural lands associated with 1008 Concession 1 Road. As a result of this consolidation, the owner has deemed the dwelling at 944 Concession 1 Road to be surplus to the needs of the farming operation and is only interested in being the sole owner of the consolidated farm parcel.

The new lot must comply with the Minimum Distance Separation Formulae

Town Staff have not identified livestock facilities within proximity of the subject lands. Minimum Distance Separation (MDS) Guideline #9 under Section 4 of the document outlines that for a proposed severance of a residence surplus to a farming operation where the existing dwelling to be severed and livestock facility are located on separate lots prior to consent, MDS Setback I is not required. This is because a potential odour conflict may already exist between those uses. Given that both the existing dwelling and any livestock facilities in the proximity of the subject lands were located on separate lots prior to the proposed consent, Staff are satisfied that the MDS I calculation is not applicable to the proposed severance of Part 1.

5.1 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. Any new driveway access proposed from Concession 1 Road to service the agricultural lands will require the submission of an Entrance Permit to the Town's Operations Department. The driveway access and laneway must be offset a minimum of 1 metre from the adjacent property line, as well as any existing utilities (hydropoles, utility pedestals, etc.). The property associated with this application contains the Peter's Branch Municipal Drain (Routh Drain System). The upstream limit of the drain contains a catch basin located on the property line dividing 940 and 944 Concession 1 Road. The proposed farm access should not interfere or alter with the function of the catch basin located on the property line, nor should the construction of the laneway damage the municipal drain pipe underneath it. The properties (944 and 1008 Concession 1) will also have to be reapportioned for future maintenance on the municipal drain. This is completed by a drainage engineering consultant at

the cost of the applicant. Town Operations staff is to be provided with a copy of the deposited reference plan.

Agencies

Niagara Region – No objections; however, the retained parcel has limited usable area available for a potential future replacement septic system. As such, the applicant is advised that tertiary treatment may be required to support future servicing needs.

TransCanada Energy Pipelines Limited – No objection.

Enbridge – No objection.

Niagara Peninsula Conservation Authority (NPCA) – A NPCA-regulated watercourse exits a culvert immediately to the north of 944 Concession Road 1. The proposed lot lines are outside of the regulation distance of the features on this site. Further, the proposed lot lines would not cause unnecessary fragmentation of the feature. As such, the NPCA offers no objections to the proposed Consent.

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 applications and/or conditions.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

There are no key natural heritage or key hydrologic features as identified in the Niagara Official Plan, and the property is not within the Conservation Lands overlay within the Town Official Plan. The property associated with this application contains the Peter's Branch Municipal Drain (Routh Drain System), which is also a watercourse regulated by the Niagara Peninsula Conservation Authority (NPCA). The proposed severance does not fragment the watercourse

feature which traverses the area. Any new driveway access proposed from Concession 1 Road to service the agricultural lands will require the submission of an Entrance Permit to the Town's Operations Department to ensure that the proposed farm access does not interfere or alter with the function of the catch basin located on the property line, and that the construction of the laneway does not damage the municipal drain pipe underneath it. The Town's Tree Protection By-law does not apply to lands outside of an urban area, and no impacts to vegetation are anticipated as a result of the proposal.

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 through 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-05/25, subject to the recommended conditions, as the application meets the *Planning Act* requirements for lot creation, is consistent with the Provincial Planning Statement and complies with the Growth Plan, Niagara Official Plan and Town Official Plan.

12. PREVIOUS REPORTS

Not applicable.

13. APPENDICES

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

Respectfully submitted:

Prepared by:



Connor MacIsaac
Planner II

Reviewed by:



Aimee Alderman, MCIP, RPP
Manager of Development Planning



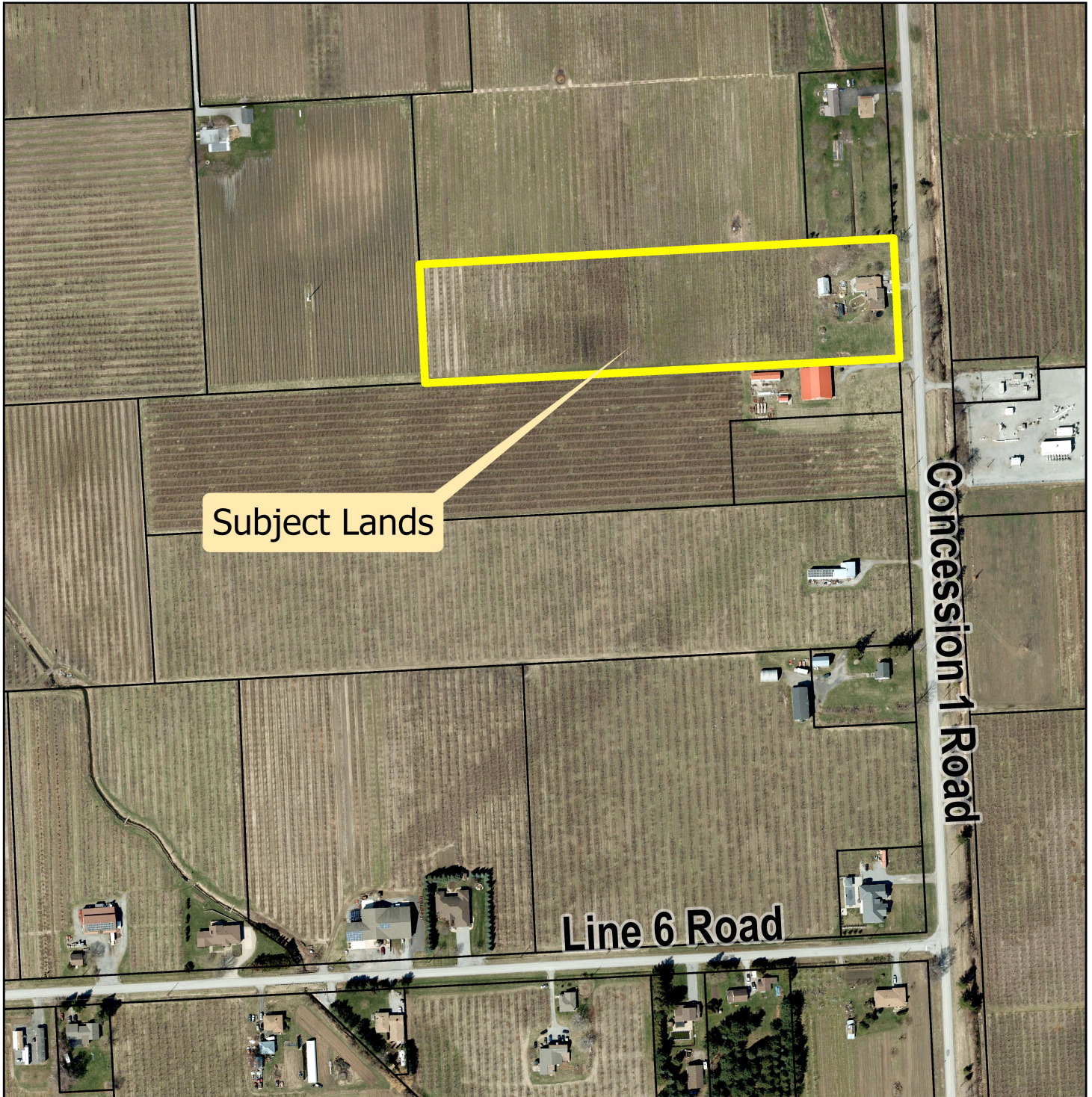
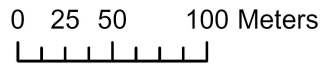
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Scale: 1:4,000

Map 1: LOCATION MAP

944 Concession 1 Road

File No: B-05-2025



From: [Justin Vanderveen](#)
To: [Natalie Thomson](#)
Subject: Re: 944 Concession 1 Rd severance
Date: May 1, 2025 5:48:38 PM

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 were expecting it or know that the content is safe. Forward the email to IT to validate.

Thank you for the info Natalie. I'd like to have the opportunity to attend and possibly participate at the hearing in person. Could you help direct me on how to register?

Thanks,
Justin



COMMITTEE OF ADJUSTMENT MEETING MINUTES

March 20, 2025, 6:00 p.m.

Members Present: _____ Steve Bartolini
_____ Margaret Louter
_____ Eric Lehtinen
_____ Paul Johnston

Staff Present: _____ Natalie Thomson
_____ Aimee Alderman
_____ Connor MacIsaac
_____ Alex Boekestyn

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: Paul Johnston
that the agenda be adopted, as presented.

APPROVED

3. CONFLICT OF INTEREST

There were no conflicts declared.

4. REQUEST FOR WITHDRAWAL OR ADJOURNMENT

There were no requests for withdrawal or adjournment

5. APPLICATIONS

5.1 Minor Variance Application A-02/25 – 1451 Line 6 Road, CDS-25-041

Natalie Thomson summarized the notice.

Alex Boekestyn summarized the staff report.

Matthew Scott (homeowner) was present on behalf of the application and provided a brief summary of the proposal.

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.

Committee members did not have any questions.

Moved by: Steve Bartolini

to accept the recommendation of the staff report that Minor Variance Application A-02/25 for 1451 Line 6 Road be approved, subject to the following condition:

1. That the applicant/owner provides a written undertaking, to the satisfaction of the Town, confirming that the accessory structure does not contain any plumbing, bedroom, or living space and is built in accordance with the plans submitted with the application.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

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

The variance is minor in nature.

The variance is appropriate for the development of the land.

The general intent and purpose of the Zoning By-law is maintained.

The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

5.2 Minor Variance Application A-03/25 – 874 Line 1 Road, CDS-25-042

Natalie Thomson summarized the notice.

Connor MacIsaac summarized the staff report.

Dan Banatkiewicz (NPG Planning Solutions Inc.) was present on behalf of 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.

The following topics were discussed:

- Driveway access
- Culvert at the front of the property
- Multiple driveways on site
- Accessory structure function
- Lot grading

Moved by: Margaret Louter

to accept the recommendation of the staff report with modified variance 1(a) that Minor Variance Application A-03/25 for 874 Line 1 Road be approved, subject to the following conditions:

1. That the owner/applicant proceeds with one of the following options with regard to the two westerly driveway accesses fronting the lands shown on the site plan (Part 8 of Plan 30R-15971), to the satisfaction of the Director of Operations:
 - a. That a fence, substantive hedgerow or other permanent barrier suitable to the Director of Operations be installed along the northern lot line between Parts 6 and 8 of Plan 30R-15971; or
 - b. That the owner/applicant applies for, and receives approval for an appropriate easement to be registered to allow for continued access across Part 8 lands to access Part 6 lands as shown on Plan 30R-15971);
2. That prior to the issuance of a building permit for the new accessory structure, an archaeological assessment be completed at the owner/applicants' expense, scoped to the area disturbance of the new accessory structure; and that no demolition, grading or other soil disturbances shall take place on the subject property, in the vicinity of the new accessory structure, 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

3. A new septic system is installed on the property to service the proposed development, which meets all Ontario Building Code requirements, to the satisfaction of Niagara Region. A permit for the new system shall be applied for and obtained from Niagara Region prior to installation; and
4. That the applicant/owner provides a written undertaking, to the satisfaction of the Region and Town, confirming that the accessory structure does not contain any bedroom or living spaces, is built in accordance with the plans submitted with the application, and that the uses will be associated with the residential use.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

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

The variance is minor in nature.

The variance is appropriate for the development of the land.

The general intent and purpose of the Zoning By-law is maintained.

The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

6. MINUTES FOR APPROVAL

The minutes were approved by unanimous consent.

7. NEW BUSINESS

There was no new business.

8. NEXT MEETING DATE

Thursday, May 15, 2025.

9. ADJOURNMENT

The meeting was adjourned at 6:28 pm.