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COMMITTEE OF ADJUSTMENT

Thursday, April 16, 2026, 6:00 p.m.

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2. ADOPTION OF AGENDA	
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4. REQUEST FOR WITHDRAWAL OR ADJOURNMENT	
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## Town of Niagara-on-the-Lake

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P.O. Box 100, Virgil, ON L0S 1T0  
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**REPORT #:** PBDS-26-004      **COMMITTEE DATE:** 2026-04-16  
**REPORT TO:** Committee of Adjustment      **DUE IN COUNCIL:** N/A  
**SUBJECT:** Minor Variance Application A-02/26 – 187 Queen Street

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-02/26 for 187 Queen Street be approved.

### 2. PURPOSE

The applicant is proposing to construct an attached garage to the existing 2-storey single-detached dwelling. To facilitate the addition, the following variances are requested:

1. Minimum rear yard setback from 5.0 metres, as required in site-specific Zoning By-law Amendment 4316FR-24, to 2.28 metres for the proposed garage addition; and
2. Maximum rear yard encroachment for unenclosed and uncovered steps from 1.5 metres, as required in the Zoning By-law, to 3.75 metres.

The application drawings (site plan and elevations) are attached as **Appendix I** to this report.

### 3. BACKGROUND

#### 3.1 Site Description and Proposal

The subject lands are known municipally as 187 Queen Street, located on the northeast corner of Queen Street and Simcoe Street, in the urban area of Old Town. The surrounding land uses include residential and commercial uses. The location of the subject lands is shown on **Appendix II** to this report.

The subject lands have an area of approximately 1,250 square metres with a frontage of 29.3 metres on Simcoe Street and a flankage of 42.7 metres on Queen Street. The lands contain an existing two-storey single-detached dwelling serviced by municipal water and sanitary connections. The existing dwelling was designated under Part IV of the *Ontario Heritage Act* in 2002. The existing single-detached dwelling and area of development is shown in **Figure 1**.



**Figure 1 – Existing Single-Detached Dwelling and Development Area**

### **3.2 Previous Planning Approvals**

The subject lands were previously subject to a Zoning By-law Amendment (“ZBA”) (File ZBA-05-2024) and Consent to Sever (File B-09/24) for the creation of one new residential lot and to retain the existing heritage dwelling. The ZBA rezoned the lands to an “Established Residential [ER-114 (b)] Site-Specific Zone” to facilitate the severance and establish provisions to recognize the proposed lot configuration and setbacks associated with a proposed garage addition to the heritage dwelling. The first iteration of the ZBA proposed two new residential lots; however, the proposal was scaled back to one new lot as a result of feedback received throughout the process. Planning Staff recommended approval of the proposal. The applications were refused by Town Council and the Committee of Adjustment, respectively, and were appealed to the Ontario Land Tribunal, where the applications were ultimately approved by the Tribunal, as recommended by Planning Staff.

As part of the conditions of the Consent, a Development Agreement was entered into between the Town and the owner to fulfil requirements associated with the build-out of the properties prior to any construction. For the subject lands at 187 Queen Street, the Development Agreement required the implementation of a previously completed Tree Inventory and Preservation Plan and the requirement to acquire a heritage permit for the proposed works.

More specifically, the Development Agreement requires the following matters to be addressed:

- Acquiring a heritage permit for any proposed alterations to the Part IV designated dwelling (187 Queen Street);
- Requiring applications to facilitate tree removals in accordance with the Town’s Tree By-laws;
- Implementing the recommendations of the Tree Inventory and Preservation Plan submitted with the ZBA application; and
- Providing a signed copy of the Town’s Tree Protection Declaration form.

The above-referenced Development Agreement conditions must be satisfied prior to any construction occurring for the proposal. The Development Agreement is registered on the title of the lands and is legally binding.

### **3.3 Heritage Review**

At the time of the previous Planning applications, a Heritage Impact Assessment (“HIA”) was submitted in support of the ZBA and Consent to demonstrate potential impacts to the heritage dwelling and its attributes and to outline any necessary mitigation and conservation measures. The HIA was reviewed by the Town’s Municipal Heritage Committee (“MHC”) on May 1, 2024, where feedback was provided by the Committee to inform heritage-related matters associated with the proposed addition to the heritage dwelling and the creation of two new residential lots. The Committee did not support the proposal at the time, and the proposal was scaled back by removing one of the proposed new lots and setting the proposed garage addition further back from Queen Street.

During the previous MHC review, the proposed garage addition similarly included a 1-storey link between the heritage dwelling and the garage addition, but this link was significantly narrower than what is currently being proposed through this Minor Variance application. The previous link provided a separation of approximately 3.7 metres between the heritage dwelling and garage addition, while the current proposed link is approximately 6.4 metres in width, providing additional separation between the garage and heritage home. The easterly shift of the proposed garage results in further zoning deficiencies related to the minimum required rear yard setback and encroachment provisions. Ultimately, the proposed additions require the issuance of a heritage permit and approval of a minor variance to allow for this development, as modified.

The MHC reviewed a proposed heritage permit for the current proposal at their January 14, 2026 and March 4, 2026 meetings, respectively. At the time of the January 14 meeting, MHC approved a motion that the applicant submit a revised heritage permit application that includes alternate design options for the façade of the new garage addition. A revised façade design was presented at the March 4 meeting and was approved subject to the following conditions:

- That the proposed additions are carried out in accordance with the heritage permit;
- That the applicant facilitates landscaping on the lands as approved by the MHC;
- That the applicant obtains any required Planning approvals and building permits to facilitate the development; and
- That the applicant clears the subject lands from having archaeological potential prior to any ground disturbing activities taking place.

It should be noted that a Stage 3 Archaeological Assessment was previously submitted as part of the ZBA and Consent applications. As a condition of the associated heritage permit, the applicant will be required to submit any subsequent archaeological assessment(s) and Ministry letter(s) confirming that the lands no longer retain archaeological potential in order to pursue the proposal.

## **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?**

Through the previous Planning applications, the configuration of the parcel at 187 Queen Street now considers the frontage at Simcoe Street to be the front yard, and as such, the rear yard is the easterly lot line of the property. The garage addition is proposed at a 2.28-metre rear yard setback, being within the minimum required rear yard setback of the lands of 5 metres as established through the site-specific zoning by-law amendment. The addition similarly proposes an encroachment for uncovered stairs within this rear yard at 3.75 metres instead of the maximum required 1.5-metre encroachment (based on the minimum required 5-metre rear yard setback). The interior side yard at the northern limit of the property continues to provide sufficient space for an outdoor amenity area, effectively acting as a rear yard for the residential use of the lands. The proposed addition is setback approximately 9.2 metres from the northern interior lot line, allowing for plenty of backyard amenity space to support the residence.

In an effort to minimize any adverse impacts to the adjacent property, the applicant has noted in their supporting materials that no windows are proposed on the eastern side of the garage, directly facing the neighbouring lands to the east of the property. An existing 6-foot-tall fence screens the subject lands and abutting residential lands to the east, and the fence will remain in place. The proposed step encroachment, facing east, is not anticipated to pose adverse impacts to the neighbouring lands as a result of the screening of the existing fence.

As a result, Staff are of the opinion that the requested variances are minor in nature.

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

The proposed construction of a 2-storey garage and 1-storey link was contemplated by the previous Planning applications and was ultimately approved by the Ontario Land Tribunal. Therefore, the proposed additions have been determined to be desirable for the development of the lands; however, this was based on a 5-metre rear yard setback. Given that the setback is proposed to be reduced through the requested variances as a result of further consultation through the associated heritage permit process, an evaluation of the setback reduction is necessary to determine appropriateness in relation to what is currently being proposed on the lands.

Available aerial imagery of the site shows that the property previously accommodated two (2) detached structures with little to no setback to the common lot line between the subject lands and abutting lands to the east. Similarly, aerial imagery shows similar rear yard setbacks for buildings on corner lots in the immediate vicinity, including residential properties on the northeast and southeast corners of Simcoe Street and Prideaux Street.

Setbacks along Queen Street vary and much of these setbacks are legal non-conforming situations due to the established heritage conservation area. The proposed rear yard setback of 2.28 metres for the garage and step encroachment of 3.75 metres into the required yard can be considered appropriate due to the established use through the previous Planning

approvals, restricting windows on the façade facing east, and implementing additional landscaping at the Queen Street frontage. The proposed additions continue to maintain adequate space for private rear yard amenity space, albeit in the interior side yard, and continue to be setback appropriately from Queen Street in order to maintain the streetscape.

In addition to this, the previously established 5-metre rear yard setback was recognized as a result of a less narrow link addition. Given that the link addition width has increased as a result of heritage-related consultation, it is evident that the rear yard setback will shrink to accommodate the garage configuration as-proposed.

Staff do not anticipate adverse impacts to adjacent properties and the Queen Street streetscape, and believe that the additions are compatible with the area. Staff are of the opinion that the proposed variances are appropriate for the development and use of the lands.

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

The subject lands are zoned “Established Residential [ER-114 (b)] Site-Specific” by way of Zoning By-law Amendment 4316FR-24, an amendment to Zoning By-law 4316-09 (as amended). By-law 4316FR-24 was approved through the Ontario Land Tribunal. The ER Zone permits single-detached dwellings and additions to such use. The site-specific provisions established a minimum rear yard setback of 5 metres on the lands, as well as a minimum exterior side yard setback of 12 metres to the front face of an attached garage.

The intent of the minimum rear yard setback is to ensure adequate privacy for adjacent rear yards and abutting properties is maintained, as well as to ensure that sufficient rear yard amenity space is provided to support the residential use on the lands.

The proposed reduced rear yard setback and increased encroachment request are consistent with other residential corner lots in the surrounding area. The proposed garage continues to maintain the minimum 12 metre exterior side yard setback, and all other provisions of the applicable zoning continue to be met in terms of the remainder of the setbacks, encroachments, lot coverage, and building height. There is also sufficient outdoor amenity area in the northerly interior side yard of the property that can support the residential use in lieu of a “backyard” in the rear yard.

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

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

The subject lands are designated “Delineated Built-up Area” in the Niagara Official Plan, 2022 (“NOP”), as well as “Established Residential” and “Built-up Area” in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended (“Town OP”).

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 Town OP recognizes the importance of conserving and preserving the character and amenities of established residential designations. This is reflected in the goals and objectives for residential designations, which includes ensuring existing housing and residential areas be preserved and improved, encouraging the development of well-designed and visually distinct forms, and ensuring that development be appropriately located and compatible with surrounding land uses in order to reduce land use compatibility impacts.

Section 6A(4.4) of the Town OP establishes 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 OP. These criteria direct development to have a consistent built form, height, massing, and building setbacks as the surrounding area. Additionally, it requires that garages not exceed 50% of the building façade and remain set back from the front façade. 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 proposed addition conforms with the goals and objectives of the Established Residential designation by proposing a massing that is compatible with adjacent properties and has been designed to limit any potential land use compatibility conflicts. The garage addition would allow for the homeowner to have a sheltered area for their vehicles, and above the garage is a proposed residential unit that would further contribute to the housing stock of Old Town.

With respect to urban design policies in the Town OP, the garage is proposed to be substantially setback from the front face of the dwelling by approximately 12 metres and the proposed garage doors do not exceed 50% of the overall width of the dwelling with the inclusion of the additions.

Staff do not anticipate adverse or negative impacts to the surrounding neighbourhood and streetscape, as the proposed development is consistent with its surrounding context and has been conditionally approved by the Town’s Municipal Heritage Committee. As such, Staff are of the opinion that the requested variances maintain the general intent and purpose of the NOP and Town OP.

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

The application was circulated to all appropriate Town departments, 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 & Emergency Services – No objections.

Heritage – The subject lands are designated under Part IV of the *Ontario Heritage Act*. The applicant has already applied for the heritage-related approvals associated with this proposed development, and Heritage Staff is awaiting final drawings to issue a Notice of Council Decision. The lands are also mapped as having archaeological potential and are required to be cleared before any ground disturbing activities occur. Clearing the lands of archaeological potential is captured as a condition of the associated Heritage Permit for the proposed works.

Public Works & Infrastructure – No objections.

Urban Forestry – Tree-related matters will be addressed as part of the existing Development Agreement.

#### External Agencies

No external agencies were circulated as part of the proposed application.

#### 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**

There are no financial implications resulting from the proposed variances.

### **8. ENVIRONMENTAL IMPLICATIONS**

The applicant is required to fulfil the tree-related conditions of the registered development agreement prior to any construction. Tree protection measures will be required for the duration of the construction of the addition.

### **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-02/26, as the requested variances are considered to be minor in nature, appropriate for the development or use of the land, building or structure, and are considered to maintain the general intent and purpose of the By-law and the Official Plan, pursuant to Subsection 45(1) of the *Planning Act*.

## 11. PREVIOUS REPORTS

- **CDS-24-065** – Information Report – Public Meeting – 187 Queen Street (ZBA-05-2024) (May 7, 2024)
- **CDS-24-066** – Municipal Heritage Committee Review of Heritage Impact Assessment – 187 Queen Street (HER-13-2024) (May 1, 2024)
- **CDS-24-104** – 187 Queen Street – Recommendation Report (ZBA-05-2024) (July 16, 2024)
- **CDS-24-141** – 187 Queen Street – Consent Application B-09/24 (August 15, 2024)
- **CDS-24-156** – Town Representation at the Ontario Land Tribunal – 187 Queen Street (ZBA-05-2024 & B-09/24) (September 24, 2024)
- **CDS-26-010** – 187 Queen Street – Heritage Permit Application – Garage Addition (HER-01-2026) (January 14, 2026)
- **CDS-26-037** – 187 Queen Street – Heritage Permit Application – Revised Garage Addition (HER-01-2026) (March 4, 2026)

## 12. APPENDICES

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

Respectfully submitted:

**Prepared by:**



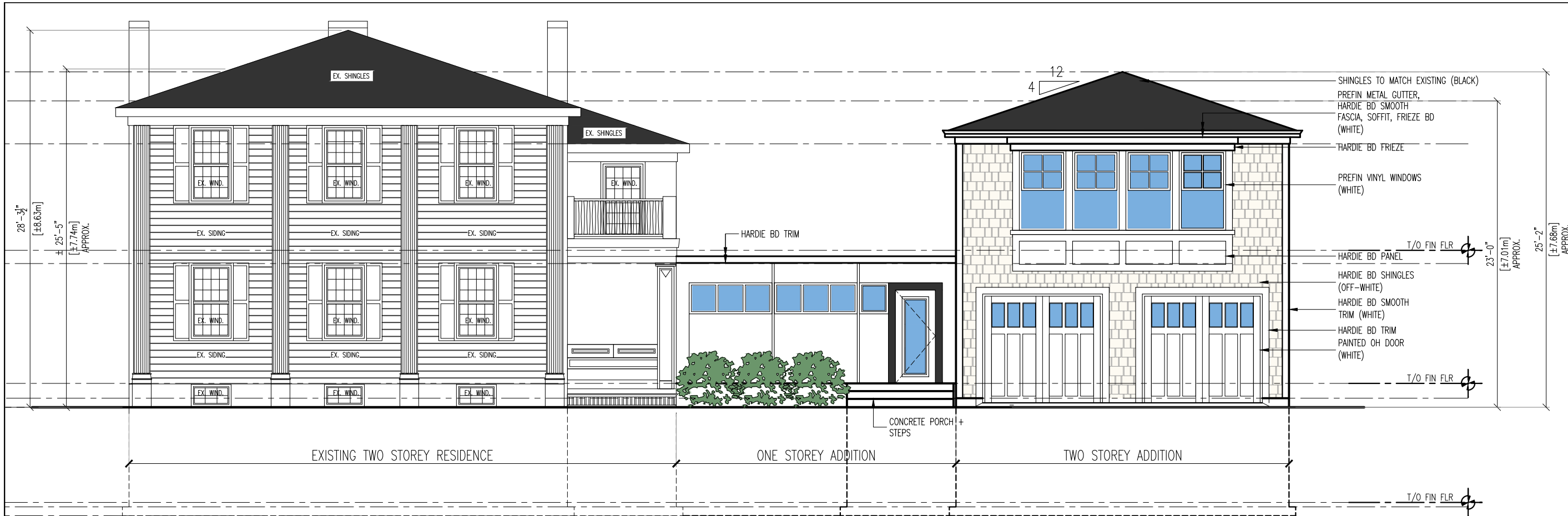
**Victoria Nikoltcheva, MCIP, RPP**  
**Senior Planner**  
**Planning, Building & Development Services**

**Recommended by:**



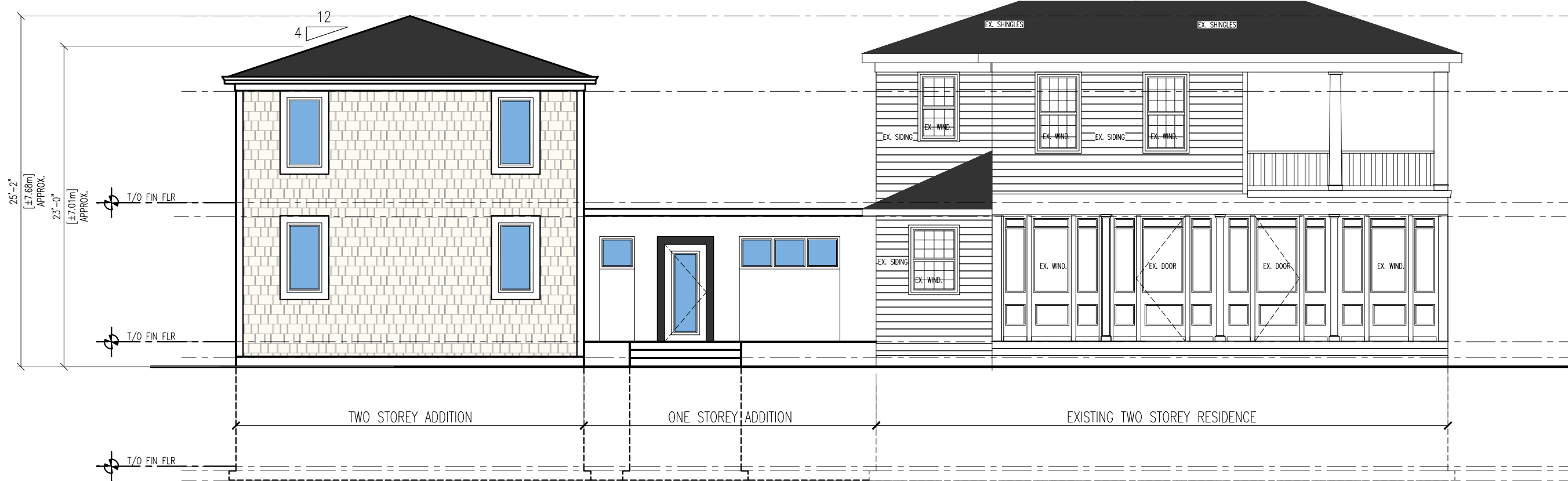
**Taya Devlin, RPP, MCIP**  
**Manager of Planning**  
**Planning, Building & Development Services**





**PROPOSED QUEEN ST / SOUTH ELEVATION**

SCALE: 1/8"=1'-0"



**PROPOSED NORTH ELEVATION**

SCALE: 1/8"=1'-0"

THESE DOCUMENTS ARE NOT TO BE SCALED.  
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 ONLY SIGNED SEALED AND STAMPED DOCUMENTS ARE TO BE USED FOR CONSTRUCTION PURPOSES.

NO.	BY:	DATE:	REVISION:


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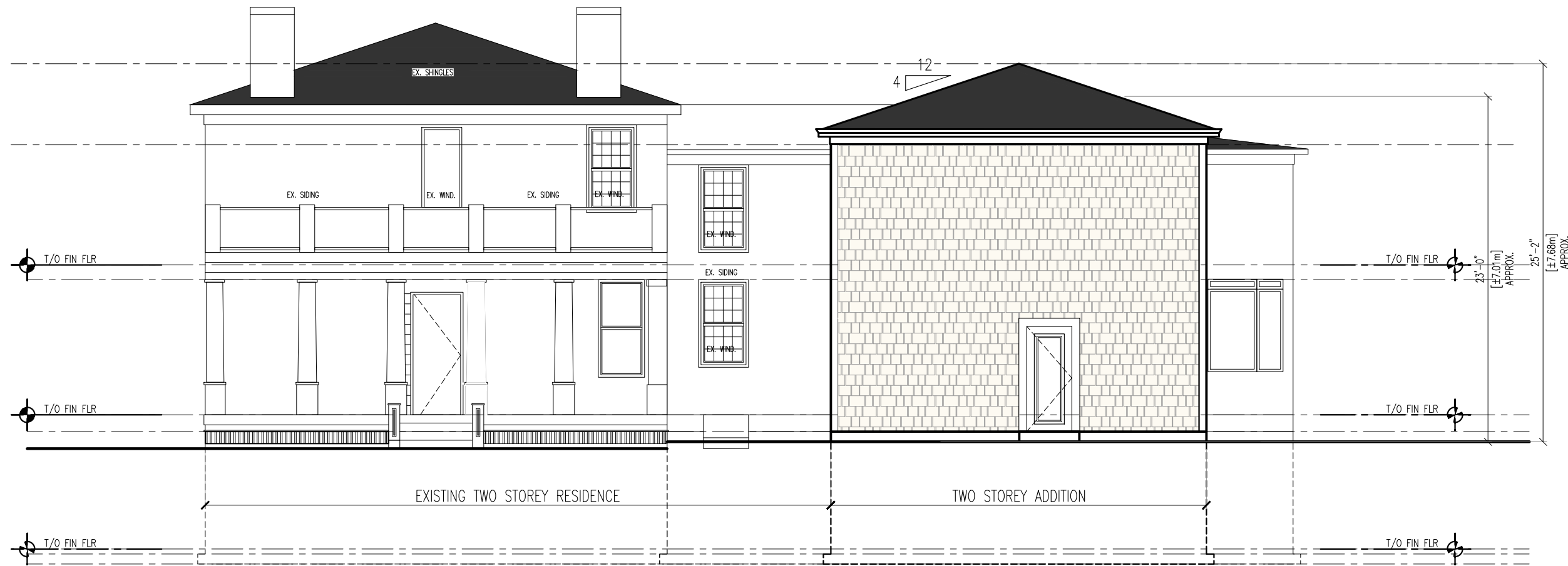


Drawn by:	FR/RR/JS/LPD	plot scale:	1:1
Design by:	LJM	code:	AS NOTED
Approved by:	MRM	date:	MARCH 6, 2026

Project Title:	QUEEN ST RESIDENCE GARAGE ADDITION 187 QUEEN ST NIAGARA-ON-THE-LAKE
Drawing Title:	PROPOSED ELEVATIONS

Revision number:	
Drawing number:	23-40

**A4**



**PROPOSED EAST ELEVATION**

SCALE: 1/8"=1'-0"



**EXISTING WEST ELEVATION**

SCALE: 1/8"=1'-0"

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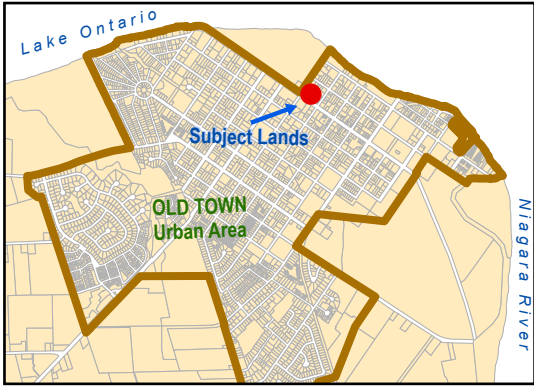
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 Date: MARCH 6, 2026

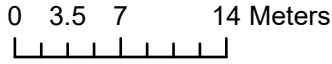
Project Title: QUEEN ST RESIDENCE GARAGE ADDITION 187 QUEEN ST NIAGARA-ON-THE-LAKE  
 Drawing Title: PROPOSED ELEVATIONS

Revision number: 23-40  
 drawing number: A5



**Map 1: LOCATION MAP**  
187 Queen Street  
File No: A-02-2026

Scale: 1:500



**From:** [REDACTED]  
**To:** [Natalie Thomson](#)  
**Cc:** [Ringash, Jolie](#); [Charles Humphrey](#)  
**Subject:** Minor Variance A-02/26 - 187 Queen Street  
**Date:** April 12, 2026 8:55:09 PM

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Natalie:

Please register me for the Electronic Public Meeting for Minor Variance A-02/26 - 187 Queen Street on April 16, 2026.

Thank You:

Paul Moorhouse.

Condominium Corporation NNSCC#196.

## Minor Variance A-02/26 - 187 Queen Street

Comments: Paul Moorhouse, representing  
Condominium Corporation NNSCC#196.  
175 Queen Street.

1. Comprehensive Zoning By-law 4316-09 requires a rear yard set back of 7.5 m.
2. The subject lands were previously subject to a Zoning By-law Amendment ("ZBA") (File ZBA 05-2024) and Consent to Sever (File B-09/24). This application included a variance to the rear yard set back from 7.5m to 5.0 m. The applications were refused by Town Council and the Committee of Adjustment, respectively, and were appealed to the Ontario Land Tribunal, where the applications were ultimately approved by the Tribunal, as recommended by Planning Staff including the variance to the rear yard set back.
3. Minor Variance A-02/26 - 187 Queen Street seeks to reduce to rear yard set back from the previously allowed 5.0 m to 2.28 m.
4. The records show no compelling reason for a reduction in the rear yard set back from 7.5 m required under the By-Law.
5. The Planning Department Report PBDS-26-004 states :

*In an effort to minimize any adverse impacts to the adjacent property, the applicant has noted in their supporting materials that no windows are proposed on the eastern side of the garage, directly facing the neighbouring lands to the east of the property. An existing 6-foot-tall fence screens the subject lands and abutting residential lands to the east, and the fence will remain in place.*

*As a result, Staff are of the opinion that the requested variances are minor in nature.*

*Staff do not anticipate adverse impacts to adjacent properties and the Queen Street streetscape.*

6. The proposed 2 storey garage and residential space 7.6 m (25 ft) located 2.28m from the property line will severely restrict light to the outdoor patios and living areas of several Unit at 175 Queen Street and impact the use and value of their outdoor space.

We request that Committee of Adjustment does NOT approve this Application.



Rendering for proposed structure from Unit 2, 175 Queen Street



Proposed Garage / apartment location South Elevation

**From:** [REDACTED]  
**To:** [Natalie Thomson](#)  
**Subject:** Re Application for Minor Variance A-02/26- 187 Queen St  
**Date:** April 14, 2026 3:04:21 PM  
**Attachments:** [Document \(2\) \(5\).docx](#)

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Please find attached submissions of Barbara and Charles Humphrey , owners of Unit 3 , 175 Queen Street relating to the above noted application . We trust this will be of assistance to the Committee in reaching a decision in this matter .

It is our intention to attend the meeting on April 16,2026 at 6:00 to supplement our written submissions with an oral presentation . Please ensure we are registered .

Charles & Barbara Humphrey

Re minor variance application number A-02/26 under section 45 of the planning act

hearing Thursday April 16<sup>th</sup> 6:00 PM

Submission from owner/resident residents of 175 queen St. Units 3..Charles and Barbara Humphrey

Submission

It is submitted that the committee of adjustment should decline to grant the variance to the site specific zoning bylaw 4316 F R-24 relating to the rear yard setback. Specifically the committee of adjustment should refrain from granting the requested reduction of the rear yard setback from 5 meters two 2.28 meters

Summary of law

Section 45(1)of the planning act authorizes and empowers the committee of adjustment to authorize such minor variants from provisions of a bylaw in respect of land or structures that in the opinion of the committee of adjustment is appropriate development of the land, if the general intent and purpose of the bylaw is preserved and maintained.

In the context of the present application the owners and residents of 187 queen St. Are seeking a variance to a 2024 site specific bylaw. This site specific bylaw was passed in 2024 referencing only 187 queen St. It was enacted in the context of the owner of 187 queen St. seeking a rezoning of 187 queen St. for the purpose of severance of a lot and anticipated redevelopment of the two parcels that were the subject of the application.

In this very specific context the committee of adjustment can be assumed to have appropriately considered how to balance and address the interests of the following parties  
1)the owners residents of 187 queen St.

2) the owners and residents of 175 queen St who share a common boundary or property line. This balancing of interests was effected by defining the rear set back parameters. The committee defined a rear yard setback from 175 queen St. property line of five meters which is approximately 17 feet. We would note that the intent was that no structure would be closer than 5 meters from the fence or property line between 187 and 175 queen St. The significance to the owners at 175 queen St unit 3 .Is that they relied on this setback in the context of both developing new landscaping and in enjoying their outdoor living space.

We would note that the outdoor living space of the units affected ( 2 and 3) is a depth of only 16 feet.

Submission: the general purpose of the bylaw is not respected or complied with if a variance reducing the set back from 5 meters to 2.28 meters is granted. We would note that this more than a 50% reduction in the set back. It is submitted that the site specific bylaw passed in 2024 was done with the intent as it should be, to balance the interest of the owners of 187 queen St and the interest of the owners and residents of 175 queen St.

The interests of the owners of 187 queen St. was in the development or alterations to the structures on their property.

The interests of the residents of 175 queen St. Is in continued enjoyment of both their outdoor living space and viable garden landscaping.

We direct the committee of adjustments attention to the scope of their obligations at law in connection with assessing and responding to an application for a variance to a bylaw. We refer the committee to the 2005 decision of the Superior Court in Re Degasperis.

We refer the committee of adjustment to page 4 paragraphs 9, 10 and 11 of the decision. The decision sets out the relevant tests that the committee of adjustment is bound to and governed by in considering whether to grant a variance to a bylaw and sets out the scope and significance of the committee of adjustments obligation to consider all four elements or tests.

. As a starting point it is useful to review the elements or tests that the committee of adjustment is directed to consider at law.

- 1) whether it is a minor variance at law.
- 2) Whether the variance sought is desirable for the appropriate development of the land or structure ?
- 3) whether the variance maintains and preserves the general intent and purpose of the zoning bylaw .

It must be noted that the variance sought here is in the context of a site specific bylaw .with arguably triggering a higher standard.

Test 4 does not appear to be relevant in the context of a site specific bylaw .

As a starting point we would direct the committee of adjustments attention to the law on how you must approach these elements. In reviewing this law you will note that the committee of adjustment cannot favor one element over the others or ignore any of the elements or tests. I would refer the committee of adjustment to paragraph 11 that directs the committee of adjustment to consider each element or requirement. It is clear that the committee of adjustment can only grant a minor variance if and when all of the requirements of each element are satisfied.

In short the committee of adjustment cannot cherry pick amongst various tests. It should also be noted that in writing any decision the committee of adjustment reasons must demonstrate and in fact evidence that the committee of adjustment considered all the facts necessary to satisfy each of the mandatory requirements for granting a variance.

With our attention focused on the test that the committee of adjustment must apply and the fact that every element must support the variance sought, it is useful to direct our attention to the following:

- 1) what the tests demand
- 2) What the relevant facts are in the context of this specific application for variance

Element 1 ...Is it a "Minor Variation" at law ?

The law directs that committee must assess both size and impact of variation sought .

Submit ...a variation representing more than a 50 percent reduction of the setback is not small or negligible

Secondly , with respect to impact , it represents a serious and corrosive impact on the rights and interests of the owners of 175 Queen St , units 2 and 3 ...in terms of both serious erosion of the enjoyment of outdoor living space and undermines the viability of not only existing new landscaping , but likely precludes any live garden landscape elements .

Facts :

1. Rear garden usable outdoor living area is a mere 16 ft depth
2. Units 2 and 3 have entire perimeters with live plant landscaping , unit 3 entire new landscaping implemented in 2024 ...with plant choices and design base on set back of new bylaw
3. The 2.23 revised set back sought would expose units 2 and 3 to a structure of estimated 25 to 30 feet within 7 ft of the existing gardens and 10 ft from only outdoor living space .
4. The light blockage given the height and 7 ft proximity to the live landscaping would undermine the viability of the existing live landscap

5. The new proximity proposed would also create a clapboard canyon out of the only outdoor living space available

In summary the impact of the proposed rear garden setback is to destroy existing live landscaping , preclude any live landscaping on rear perimeter and rob owners of any opportunity for outdoor living except in a 30 ft high clapboard corral .

In summary what reducing the setback does is to create a clapboard Canyon between the back of the townhouse residence and the proposed two-story garage, residential unit. Although we recognized and accepted the set backs defined in the site specific bylaw, recognizing that a set back of 5 meters would have some impact on owners of units 2 and 3 in terms of view, the variance sought at this time with a set back of only 2.3 m would present a much more egregious impact on both the viability of gardens and garden light, destroying the viability of any flowering plants as well as penning us in a virtual Canyon with no ability to see beyond a 30 foot wall.

Submission ... reminder test 1 minor variance given both the numeric fact of a reduction of over 50% of the set back and given the fact of the extreme erosion of sustainability of any garden and the erosion of any enjoyable outdoor living given the Canyon phenomena described , this committee should not at law conclude that the requested variance satisfies the test for a minor variance as provided in legislation On a consideration of the present factual context, it clearly does not satisfy the test as qualifying as a minor variance.

test #2

The question here for the committee of adjustment is whether the variance is desirable for an appropriate use of the land or the buildings. It is important to note the case law Directs the committee assessing the variance the variance to consider factors that can affect the broad public interest as that public interest relates to the development or use of land or structures. It is submitted that the variance sought here ,in the context of a site specific bylaw has no relevant public interest . Remember this application is for a variance of a site specific bylaw

Let's look at the facts . The structure is a private garage positioned on the property 187 Queen Street ...a private garage on a private property to be used by the owners of 187 queen St. The owners of 187 queen St. have the ability to build the the precise garage that they've designed within the parameters of the existing rear yard setback and other requirements of the site specific by law. There is no public interest factor at issue here

The site specific bylaw passed in 2024 was intended to balance the legitimate interests of both the owners of 187 queen St and interests of the owners of units two and three of 175 queen St. ( a right to retain some enjoyment in the context of exterior living space and retention of garden landscape elements ) Any granting of the variance would erode the rights and interests of the owners of 175 queen St. units 2 and 3 in both the physical use and the enjoyment of outdoor living space space as well as undermining any viable green garden elements.

The variance sought here is in no way required to support the appropriate use of the land or structure, The use and structure are viable and can be pursued under the existing site specific bylaw.

Submission re. test #2 ...on the facts in applying test #2 it does not support granting the variation to the site specific bylaw .

I would note that in applying this test 2 , the supreme the Superior Court clarifies and cautions that the issue isn't whether the variance sought is desirable from the perspective of the owners plans or desires for their home. To quote we would submit that there is no viable planning or public interest point of view that arises in the context of this application for a variance to a site specific bylaw.

This site specific bylaw was meant and intended to balance the interests between the owners of 187 Queen Street and the owners of 175 queen St. units impacted by any development at 187 queen St.

Test #3 ...under this test , the committee of adjustment is directed to assess whether the variance sought would maintain the general intent and the purpose of the existing zoning bylaw. Before applying the test it is relevant and important to recognize that the by law issue here is not a general zoning bylaw. It is a site specific bylaw and as result its intent

and purpose could only be intended to recognize and balance the legitimate interests of the only parties affected by the site specific bylaw which are the owners of 187 Queen St. And the owners of relevant units at 175 Queen St.

The case law again clearly directs the committee of adjustment on how to approach this test. The law directs the committee of adjustment to analyze the specific bylaw. In this case the specific bylaw is a site specific bylaw. The committee of adjustment is directed by the case law to consider the intent and purpose of the specific bylaw and to reach a conclusion on the circumstances of the variance sought in a manner that will maintain and preserve both the interest and the purpose of the specific bylaw.

. I would submit that in applying this test in accordance with the direction to the committee of adjustment at law the committee of adjustment can only reach the conclusion that the variance sought here would not maintain either the interest, intent nor the purpose of this site specific bylaw passed in 2024.

On the facts the variance sought would completely erode or annihilate the interests of the relevant owners of 175 Queen St. units 2 and 3.

Clearly the site specific bylaw of 2024 was intended to protect and preserve the legitimate interest of the owners at 175 Queen St. It was intended to balance the interests of the owners of 187 Queen Street and the owners of 175 Queen St.

The bottom line is that the owners of 187 Queen Street can build the garage and residential structure that they planned within the current parameters of the site specific bylaw setbacks without destroying and further compromising the interests of the owners at 175 Queen St. units 2 and 3, in terms of both their use of their gardens and their ability to have live garden elements in their rear outdoor space.

#### Summary of submissions

In applying section 45 (1) of the planning act in accordance with the direction of the legislation and case law, the requested variance should be denied as *prima facie* the proposed variance is not consistent with the intent of the site specific bylaw. It would clearly frustrate both the intent and the purpose of the site specific bylaw enacted in 2024.

Secondly, the committee of adjustment in properly applying the four element test set out with respect to considering a variance to a bylaw, in effect determining whether the

variance sought is minor at law , can only conclude on the facts here that it fails on all 4 elements of the relevant tests,

To summarize on test #1, it is not a minor variance in terms of either the quantum (over 50% reduction in the set back )and in terms of the impact on the owners of 175 queen St. in ( seriously and irreparably) erodes their interests that were intended to be protected by the site specific bylaw setback .

Re test #2

the variance sought is not desirable or appropriate for the development of the land or structure. There is no public interest here . It is a personal interest and goal of the owners that is recognized at law as being not relevant to this issue.

Test #3

The preservation and maintenance of the intent and general purpose of a bylaw

the proposed variance would undisputably iundermine both the intent and the purpose of the site specific by law enacted in 2024.

in conclusion we urge the committee of adjustment to recognize that the interests of both the owners of 187 Queen Street and the owners of units two and three at 175 queen St. as envisioned by the rear yard setback defined in the site specific bylaw of 2024 can only be preserved and maintained as intended, if this committee of adjustment declines to allow the variance regarding the rear set back sought in the application.

We would emphasize again that the owners of 187 queen St can build the garage and residence as designed and planned in the context of the existing site specific bylaw. Their subsequent preferences as to the positioning of the garage on the lot is not recognized as a relevant interest at law that would support granting the proposed variance to this site specific by law, particularly given the context in which this site specific bylaw was enacted. It's granting would make a mockery of the process that generated this site specific bylaw and literally throw any and all interests of the owners of the residences impacted under the proverbial bus .

Ms. Natalie Thomson, Secretary-Treasurer Committee of Adjustment.

Via email: Natalie.thomson@notl.com

Thank you for the opportunity to submit comments regarding **Minor Variance A-02/26 – 187 Queen Street**. We are the owners of unit 6 at 175 Queen Street, the property to the immediate east of the subject address. We are pleased to hear that efforts are being made to enhance this heritage property.

We wish to express our objection to the variance requesting a reduction in the rear lot set-back from 5m to 2.28 meters. The current allowance is itself a variance from the existing Zoning By-Law requiring a 7.5 meter setback. Accordingly, we feel that the ultimate impact, a reduction of almost 70% in the existing setback is not a minor change and would significantly and adversely impact both the proportionality of the eventual structures relative to the lot size as considered in the heritage designation, particularly as viewed from Queen street, and the living experience of those living in the units at 175 Queen. We acknowledge that the sunlight and visible impact will be most pronounced to those in units 2-4 but feel that there will be a tangible decrement in sunlight and visibility for all unit holders and we remain concerned that the setback variance requested here, if allowed, will establish a precedent that might be relied upon for the eventual construction of a dwelling on the newly severed vacant lot to the north.

As 5 meter setback was considered adequate in the prior plan for the two-level garage with living quarters above at 187 Queen, it should be workable for the structure proposed in this application to be built within the 5 m setback constraints. The staff comments assert '...that the link addition width has increased as a result of heritage-related consultation'. This rationale is unclear to us, and we suggest that an alternate solution should be sought. Although not the subject of the current hearing, we did want to express our pleasure in seeing that the current plans no longer include a second floor balcony or windows facing 175 Queen on the proposed new structure, and we hope that these changes will be preserved in the final plan. Again, we appreciate and support efforts to beautify and enhance this property.

Glen Bandiera

Jolie Ringash



## 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 #:** PBDS-26-007 **COMMITTEE DATE:** 2026-04-16  
**REPORT TO:** Committee of Adjustment **DUE IN COUNCIL:** N/A  
**SUBJECT:** Minor Variance Application A-03/26 – 641 Simcoe Street

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-03/26 for 641 Simcoe Street be approved.

### 2. PURPOSE

The applicant is proposing the construction of a one-storey addition to the rear of the existing single detached dwelling. To facilitate the addition as proposed, the following variance from Town Zoning By-law 4316-09, as amended, is requested:

1. Maximum lot coverage from 33%, as required in the Zoning By-law, to 34.5% to accommodate the proposed addition.

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

### 3. BACKGROUND

#### 3.1 Site Description and Proposal

The subject lands, known municipally as 641 Simcoe Street, are located on the west side of Simcoe Street, at the western terminus of Victoria Street, in the urban boundary of the Town (Old Town). The surrounding lands primarily contain residential uses. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 669 square metres with approximately 18 metres of frontage on Simcoe Street. The subject lands currently contain an existing one-storey, single-detached dwelling and attached garage, which are serviced by municipal water and sanitary services.

As shown in **Appendix I**, the applicant is proposing to remove the existing rear covered porch, and construct a one-storey addition at the rear of the dwelling. The proposal creates a deficiency from the Zoning By-law 4316-09, as amended, related to the overall lot coverage.

### 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. A review of the requested minor variance application against each of the four tests as established under Section 45 of the *Planning Act* is provided below.

**1. Is the requested variance minor in nature?**

The proposed lot coverage will exceed the maximum lot coverage permitted (33% of the lot area) by 1.5%, with a proposed total lot coverage of 34.5% 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 space for amenities, parking, landscaping, and stormwater management on the lot. The proposed addition is within the rear yard and will not alter the streetscape or character of the area.

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

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

The applicant has advised that the requested increased lot coverage is necessary to accommodate the proposed rear addition. 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 25% 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 the neighbourhood.

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

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

The subject lands are zoned "Residential (R1) 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 adequate space 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, as the addition will be located in the rear yard.

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?**

The subject lands are designated "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. Single-detached dwellings and associated accessory structures are permitted in this designation.

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 Town Official Plan recognizes the importance of conserving and preserving the character and amenities of established residential designations. This is reflected in the goals and objectives for residential designations, which includes ensuring existing housing and residential areas be preserved and improved, encouraging the development of well-designed and visually distinct forms, and ensuring that development be appropriately located and compatible with surrounding land uses in order to reduce land use compatibility impacts.

Any construction of additions or new structures within this designation shall complement existing adjacent development in terms of its scale, character, height, design and mass.

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 “Low Density Residential” respects and reflects the existing pattern and character of adjacent development.

It is Staff’s opinion that the requested variance 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 addition is located appropriately in the rear yards, and the setbacks requested for the addition are consistent with surrounding properties.

Staff are satisfied that the proposal is consistent with the direction contained in the Town Official Plan “Low Density 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**

The application was circulated to all appropriate Town departments, 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 – No objections.

Finance – No objections.

Public Works and Infrastructure – 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 applications.

### **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. No private or public trees have been identified for removal as a result of the proposal.

### **9. COMMUNICATIONS**

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

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

### **10. CONCLUSION**

Planning Staff recommend approval of Minor Variance Application A-03/26, 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
- **Appendix II** – Location Map

Respectfully submitted:

**Prepared by:**

  
**Connor MacIsaac**  
**Planner II**

**Recommended by:**

  
**Taya Devlin, RPP, MCIP**  
**Manager of Planning**  
**Planning, Building & Development**  
**Services**

**HARTWELL**  
BUILDING DESIGN INC.

Clayton J. Hartwell 905-932-2779  
SMALL BUILDING DESIGNER BCIN 125833  
clayton@hartwellbuildingdesigninc.ca

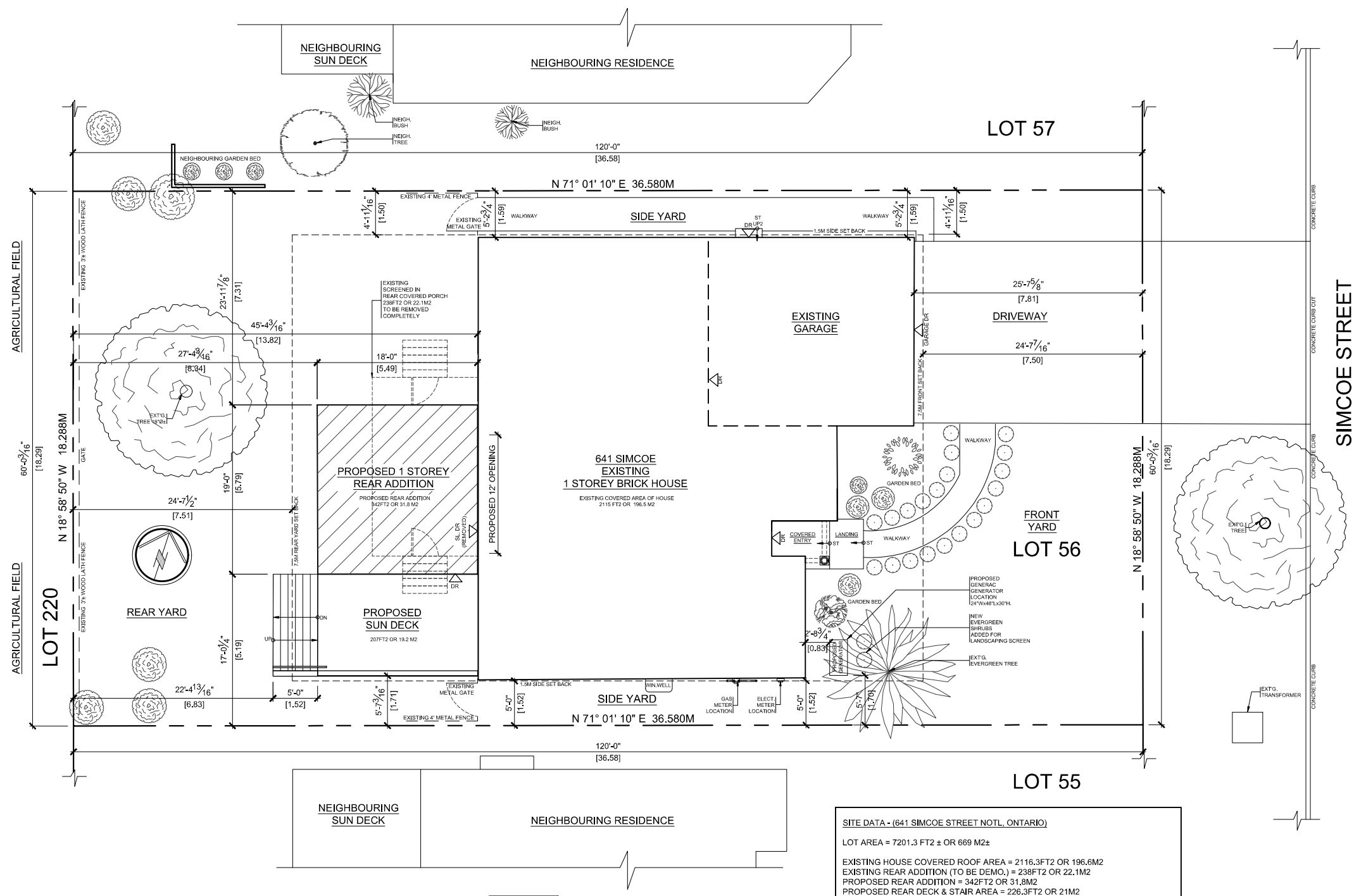
*The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a designer.*  
QUALIFICATION INFORMATION - Required unless design is exempt under 3.2.5.1. of Division "C" of the Ontario Building Code

*Clayton J. Hartwell*  
NAME SIGNATURE 36573 BCIN

QUALIFICATION INFORMATION - Required unless design is exempt under 3.2.4.1. of Division "C" of the Ontario Building Code

**HARTWELL BUILDING DESIGN INC.**  
FIRM NAME 125833 BCIN

- NOTES:**
- 1) THE DESIGNER HAS REVIEWED THE INFORMATION PROVIDED ON THE ATTACHED DRAWING.
  - 2) THE DESIGNER DOES NOT CERTIFY THAT ALL DETAILS OF THE PROJECT ARE PROVIDED. ALL CONSTRUCTION MUST CONFORM TO THE ONTARIO BUILDING CODE, LOCAL REGULATIONS AND AUTHORITIES HAVING JURISDICTION.
  - 3) CONTRACTOR MUST REVIEW AND VERIFY THAT ALL DRAWINGS ARE DIMENSIONALLY ACCURATE, THE DESIGN CONCEPT IS CONSTRUCTIBLE AND CONFORMS TO ALL ITEMS AND DOCUMENTS RELATED TO THIS PROJECT INCLUDING EXISTING SITE CONDITIONS, SITE PLAN AGREEMENTS, OTHER DESIGNER'S WORK TO FORM A PART OF THIS PROJECT, ETC. PRIOR TO PROCEEDING WITH THE WORK.
  - 4) CONTRACTOR/ AGENT/ OWNER MUST NOTIFY THE DESIGNER OF ANY CHANGES, ERRORS OR OMISSIONS.
  - 5) DRAWING IS NOT TO BE SCALED.
  - 6) THE DESIGNER DOES NOT ACCEPT RESPONSIBILITY FOR OTHER DESIGNER'S WORK, SUCH AS, BUT NOT LIMITED TO, STRUCTURAL, MECHANICAL, ELECTRICAL, PLUMBING, PRE-ENGINEERED PRODUCT DESIGN, ETC.
  - 7) THE DESIGNER DOES NOT ACCEPT RESPONSIBILITY FOR ANY FINAL CONSTRUCTION ASSEMBLIES THAT VIOLATE THE APPLICABLE BUILDING CODES.
  - 8) THE DESIGNER MUST BE GIVEN 48 HR. NOTICE TO PERFORM ANY SITE REVIEWS OF THE CONSTRUCTION (IF REQUIRED). SITE REVIEWS ARE NOT PART OF THE ORIGINAL DESIGN CONTRACT.



**SITE DATA - (641 SIMCOE STREET NOTL. ONTARIO)**

LOT AREA = 7201.3 FT<sup>2</sup> ± OR 669 M<sup>2</sup>±

EXISTING HOUSE COVERED ROOF AREA = 2116.3FT<sup>2</sup> OR 196.6M<sup>2</sup>  
 EXISTING REAR ADDITION (TO BE DEMO.) = 238FT<sup>2</sup> OR 22.1M<sup>2</sup>  
 PROPOSED REAR ADDITION = 342FT<sup>2</sup> OR 31.8M<sup>2</sup>  
 PROPOSED REAR DECK & STAIR AREA = 226.3FT<sup>2</sup> OR 21M<sup>2</sup>

TOTAL PROPOSED COVERED ROOF AREA  
 PROPOSED RESIDENCE & REAR ADDITION  
 2116.3FT<sup>2</sup> (196.6M<sup>2</sup>) + 342FT<sup>2</sup> (31.8M<sup>2</sup>) = 2458.3FT<sup>2</sup> (228.4M<sup>2</sup>)  
 PROPOSED LOT COVERAGE PERCENTAGE =  
 7201.3FT<sup>2</sup> (669.0M<sup>2</sup>) / 2458.3FT<sup>2</sup> (228.3M<sup>2</sup>) x 100=34.1%  
 MAX. ALLOWABLE LOT COVERAGE = 33%

LANDSCAPE OPEN SPACE PERCENTAGE = (LOT AREA / LANDSCAPE OPEN AREA)  
 7201.3FT<sup>2</sup> (669M<sup>2</sup>) / 3916FT<sup>2</sup> OR (363.8M<sup>2</sup>) x100 = 54.4%

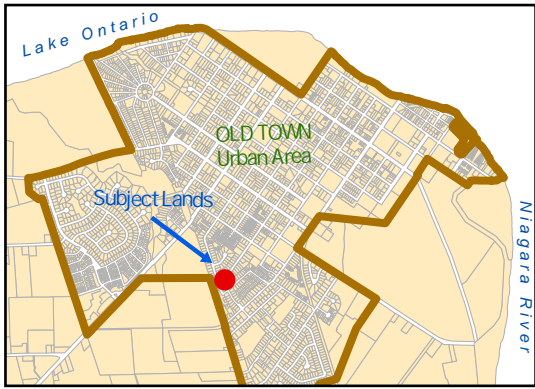
**1** SITE PLAN  
SP SCALE : 1:75

0.	ISSUED FOR MINOR VARIANCE	FEB.25 2026
	Revisions/Issue	Date

CLIENT NAME:  
**SUE & JOHN YEO**

PROJECT NAME PROJECT ADDRESS:  
**RENOVATION & ADDITION**  
641 SIMCOE STREET,  
NIAGARA ON THE LAKE, ONTARIO

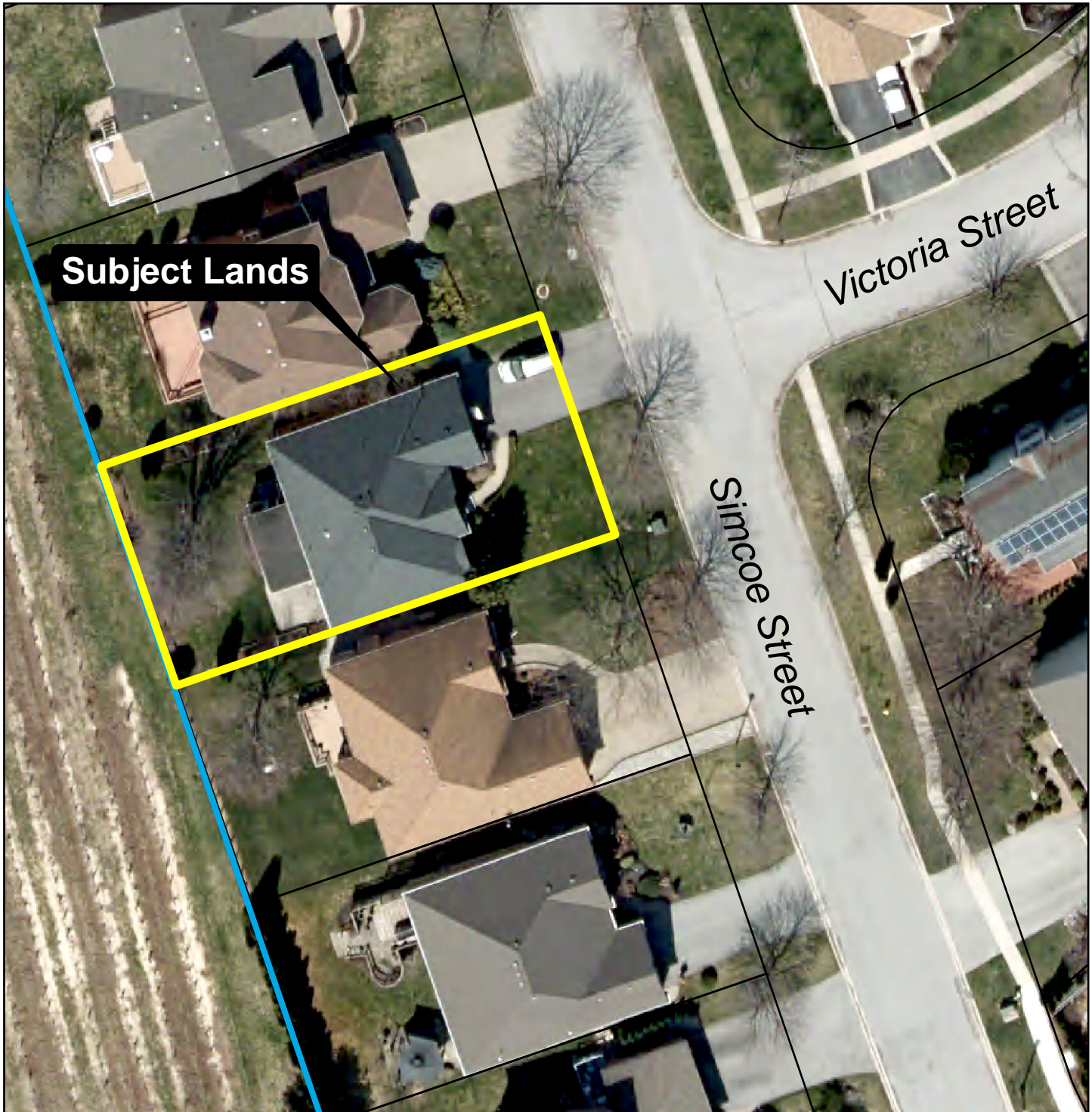
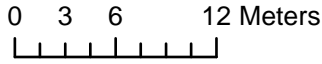
JOB # **25-11-175** Sheet  
DRAWN BY: **C.J.H.** **SP**  
SCALE: **AS NOTED**



**Map 1: LOCATION MAP**

641 Simcoe Street  
File No: A-03-2026

Scale: 1: 450





## 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 #:** PBDS-26-015 **COMMITTEE DATE:** 2026-04-16  
**REPORT TO:** Committee of Adjustment **DUE IN COUNCIL:** N/A  
**SUBJECT:** Consent Application B-13-25 – 6147 Townline Road

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-13-25 be approved, subject to the following conditions:
  - 1.1.1 That the owner/applicant prepare and register on title, to the satisfaction of the Director of Planning, Building, and Development Services, a restrictive covenant for Part B, prohibiting residential use and the erection of any dwelling units;
  - 1.1.2 That the owner/applicant provides a legal description of Part B, 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 Planning, Building, and Development Services, for use in the issuance of the Certificate of Consent; and
  - 1.1.3 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building, and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Parcel B, 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.

### 2. EXECUTIVE SUMMARY

Staff have received a Consent Application submitted under Section 53(12) of the *Planning Act* proposing to sever lands at the rear of 6147 Townline Road to be used for conservation activity associated with the Bruce Trail. Town Staff have reviewed the application and consider the Application to meet applicable planning legislation and policies subject to the recommended conditions.

### 3. PURPOSE

Application B-13/25 proposes to sever Part B from Part A to be conveyed to the Bruce Trail Conservancy, to be preserved and protected as a part of the Bruce Trail conservation corridor. The Application has the effect of creating a new lot without frontage on a public road, for the purposes of conservation and recreational purposes associated with the Bruce Trail.

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

#### **4. BACKGROUND**

##### **4.1 Site Description and Surrounding Lands**

The subject lands are municipally known as 6147 Townline Road, lying east of Four Mile Creek Road, in the St. Davids Urban Area. The surrounding lands include a mix of residential uses, including the Creekside Seniors Estates, the General Brock Parkway (Highway 405), and environmental features associated with the Niagara Escarpment. The location of the subject lands is shown on **Appendix II** of this report.

Part A has an approximate area of 4,107 square metres and contains a single-detached dwelling, serviced by municipal water and sanitary services. Part A has approximately 49 metres of frontage on Townline Road.

Part B has an approximate area of 576 square metres and accommodates the existing Bruce Trail and associated vegetation. Part B will be used to protect and enhance the Niagara Escarpment and associated Bruce Trail corridor. Part B is not proposed to have frontage on a public road.

#### **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* further 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 Section 51(25), 51(26) and 51.1.

The Provincial Planning Statement (“PPS”) 2024, designates the subject lands as being with a “Settlement Area.” The Niagara Escarpment Plan (“NEP”) designates the lands as Escarpment Protection Area and Escarpment Natural Area and are located within the Minor Urban Centre of St. Davids. Further, the subject lands are designated “Delineated Built-up Area” in the Niagara Official Plan (2022) and “Escarpment Natural Area” in the Town’s Official Plan (2017 Consolidation, as amended).

The PPS sets out that natural areas shall be protected and that healthy, active, and inclusive communities should be promoted by planning and providing for a full range of publicly accessible built and natural settings for recreation, including facilities, parklands, public spaces, open space areas, trails and linkages, and, where practical, water-based resources.

The subject property is impacted by the Natural Environment System (NES) of the Niagara Official Plan, 2022 (“NOP”), consisting of Significant Woodland and Other Wetland. NOP Policy 3.4.1.4 promotes the donation of privately owned lands in the natural environment system to public agencies or charitable organizations.

Similarly, Part 3 of the NEP, sets out policy direction for the Niagara Escarpment Parks and Open Space System (“NEPOSS”). Objectives for the NEPOSS include providing adequate opportunities for outdoor education and recreation and providing public access to the Niagara Escarpment.

Within Minor Urban Centres, the NEP identifies development and growth objectives that include providing public access to the Escarpment through walkways and pedestrian trails, specifically referencing the Bruce Trail. While not directly regulating severances, this establishes a clear policy direction that development is expected to support and maintain public access routes. These objectives are relevant in evaluating lot creation proposals related to the Bruce Trail corridor. This direction is reinforced through the Development Criteria for Lot Creation under Section 2.4, which requires that decision-makers consider the need to provide for or protect public access to the Escarpment, explicitly including the Bruce Trail corridor.

While the NEP generally requires new lots to front onto a public road, Policy 2.4.12 provides a clear exception for public bodies and approved conservation organizations. Under this policy, new lots may be created without frontage where they serve public or conservation purposes. The Bruce Trail Conservancy is explicitly recognized as a public body for this purpose, enabling the creation of parcels that may not meet standard frontage requirements but are necessary to secure and manage the Trail.

The subject lands are zoned “Residential (R1)” in Zoning By-law 4316-09, as amended. Section 21 of The Town Official Plan and Section 9.1 of the Zoning By-law require public road frontage and establish minimum lot area standards for residential development, these provisions must not conflict with the NEP. In this case, both Town Staff and the Niagara Escarpment Commission are of the opinion that the Zoning By-law frontage requirement conflicts with Policy 2.4.12, as it would prevent the creation of conservation parcels by a public body such as the Bruce Trail Conservancy.

Similarly, the minimum lot area requirement of the Zoning By-law is not appropriate in this context, given that the NEP supports the creation of parcels based on conservation needs, which are often defined by environmental features, trail alignment, or land assembly considerations rather than standard residential lot sizes. Applying a fixed minimum lot area prevents the creation of such parcels, even where they are consistent with NEP objectives, thereby limiting the ability to secure and protect the Bruce Trail corridor.

As municipal policies cannot conflict with provincial plans, the frontage and minimum lot area requirements of the Zoning By-law should not be applied where they would override the policy direction in the NEP. Enforcing these standards in this case would hinder the creation of conservation-related parcels and conflict with the NEP’s objective of protecting the Bruce Trail and improving public access to the Escarpment and lot creation exceptions set out in Section 2.4. Accordingly, the Official Plan policies and zoning provisions are not applicable in this instance as they are not operative as they are in direct conflict with the specific provisions of the NEP which permits lot creation in this circumstance.

The lands will maintain their Residential (R1) Zoning and will be transferred to the Bruce Trail Conservancy. Despite the intent to utilize these lands for conservation purposes, Town staff

will require a restrictive covenant to be registered on title for Part B to ensure the lands cannot be used for residential purposes.

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

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

#### Town Departments

Building – No objection.  
Finance – No objection.  
Fire & Emergency Services – No objection.  
Heritage - No objection.  
Public Works - No objection.

#### Agencies

Niagara Escarpment Commission – No objection.  
Niagara Peninsula Conservation Authority - No objection.  
Niagara Region - No objection.  
Enbridge Gas - No objection.  
Hydro One - No objection.

## **6. STRATEGIC PLAN**

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

#### **Pillar**

3. Enrich Community Assets, Environment, & Infrastructure

#### **Priority**

3.2 Environment

#### **Action**

3.2 a) Sustainable Natural Environment

## **7. OPTIONS**

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

## **8. FINANCIAL IMPLICATIONS**

The owner/applicant is responsible for any costs associated with the clearing of conditions, including registration of the required agreement.

## **9. ENVIRONMENTAL IMPLICATIONS**

The proposal will allow for improve conservation management of the lands as they will be transferred to the Bruce Trail Conservancy for protection and maintenance. Further a restrictive covenant will be registered on title to prevent any residential development.

## **10. COMMUNICATIONS**

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

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

**11. CONCLUSION**

Planning, Building, and Development Services Staff recommend approval of Consent Application B-13/25 for 6147 Townline Road, subject to the recommended conditions, as the Application meets the *Planning Act* requirements, is consistent with the Provincial Planning Statement, and conforms with the Niagara Escarpment Plan, Niagara Official Plan and the Town Official Plan.

**12. APPENDICES**

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

Respectfully submitted:

**Prepared by:**

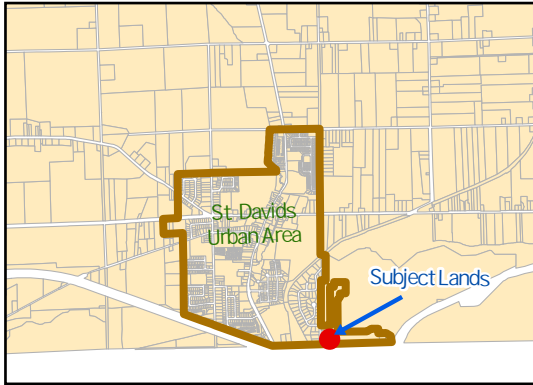


**Alex Boekestyn  
Planner II**

**Recommended by:**



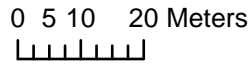
**Taya Devlin, RPP, MCIP  
Manager of Planning  
Planning, Building & Development  
Services**

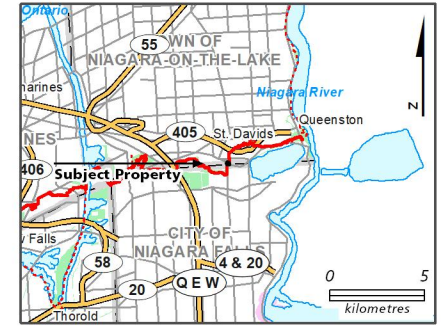
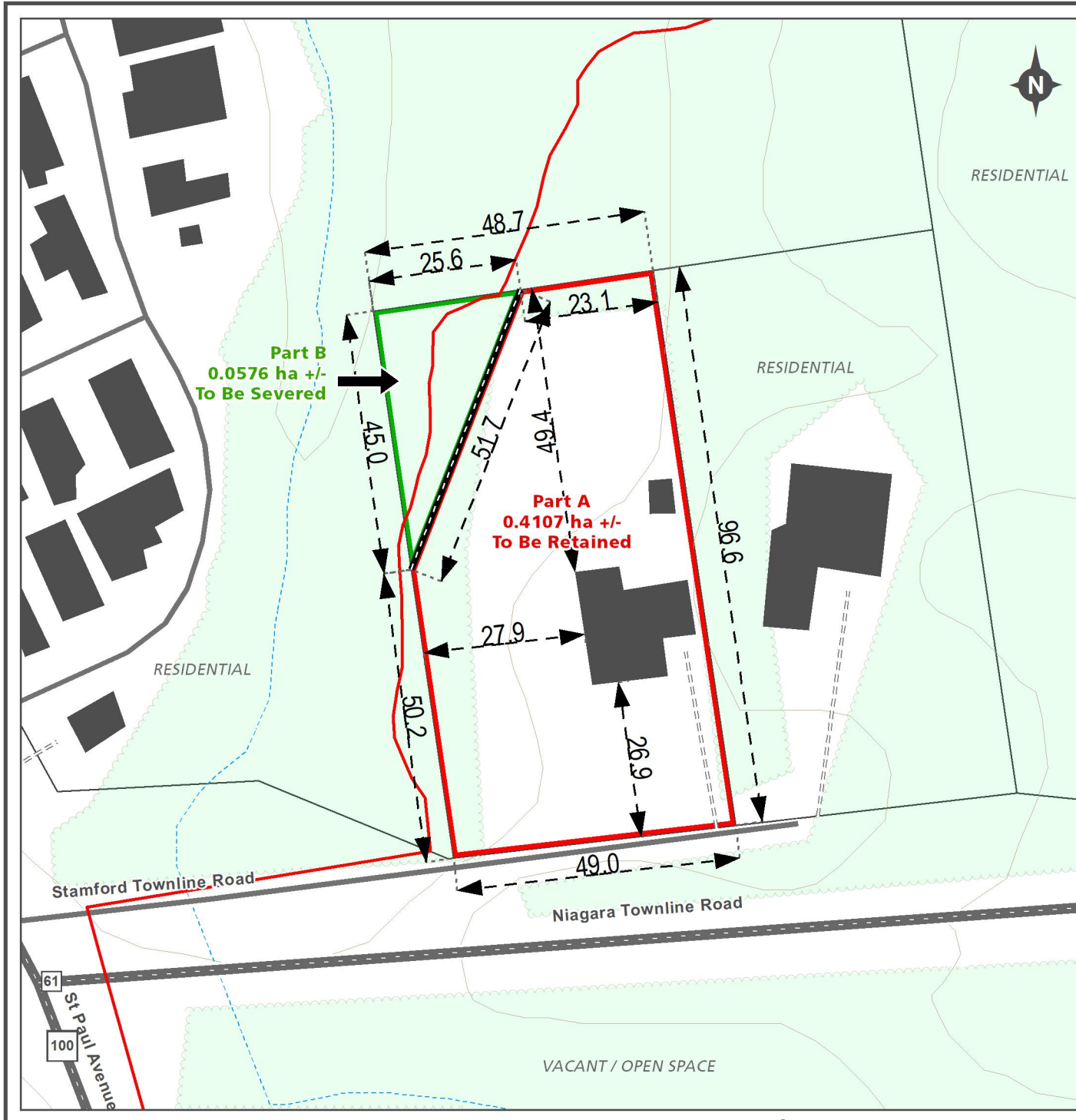


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**Map 1: LOCATION MAP**  
6147 Niagara Townline Road  
File No: B-13-2025

Scale: 1:1,200

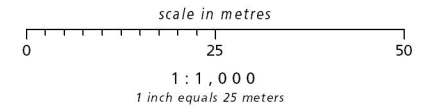




### Friesen 3-003

**Legal Description**

Address: 6147 Stamford Town Line  
Pt Lt 92 ;  
Former Township of Niagara  
Town of Niagara-On-The-Lake  
Regional Municipality of Niagara  
ARN: 26270200252140000000



	To Be Severed		Main Trail
	To Be Retained		Contour (5 metre)
	Severance Line		Stream (intermittent)
	Driveway		Wooded Area
	Building		Private Land

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## 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 #:** PBDS-26-014 **COMMITTEE DATE:** 2026-04-16  
**REPORT TO:** Committee of Adjustment **DUE IN COUNCIL:** N/A  
**SUBJECT:** B-03/26 & A-04/26 – 765 Four Mile Creek Road

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-03/26 be approved subject to the following conditions:
  - 1.1.1 That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with one (1) digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Town, for use in the issuance of the Certificate of Consent;
  - 1.1.2 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building, and Development Services, to forward a copy of documentation confirming the transaction, i.e. merging of Part 2 with 916 Line 7 Road, 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 location of the existing driveway on Part 1 of the proposed severance be confirmed by survey and be moved northward if necessary to ensure a minimum 1.0 metre interior side yard setback from the property line between 761 and 765 Four Mile Creek Road;
  - 1.1.4 That the owner/applicant apply to the Town's Public Works Department for the installation of a new water service for Part 1 of the proposed severance and the disconnection and capping of the existing water service at the property line;
  - 1.1.5 That the Owner/applicant have the septic tank servicing Part 1 pumped out and the system be reinspected to confirm proper operation under normal conditions to the satisfaction of Niagara Regional staff; and
  - 1.1.6 That Minor Variance A-04/26 be approved to recognize the lot frontage deficiency.
- 1.2 Minor Variance Application A-04/26 be approved.

### 2. EXECUTIVE SUMMARY

Staff have received a Consent Application (B-03/26) submitted under Section 53(12) of the *Planning Act* proposing to sever the existing dwelling at 765 Four Mile Creek Road as a residence surplus to an agricultural operation. A Minor Variance Application (A-04/26) is required to address the lot frontage deficiency of Part 1, and to recognize the maximum height for an existing accessory structure (garage).

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

### **3. PURPOSE**

The consent application proposes to sever the residential portion of the property (Part 1) from the agricultural lands (Part 2) and merge the agricultural lands (Part 2) with the abutting farm known municipally as 916 Line 7 Road. A Minor Variance Application is required to address the lot frontage of Part 1 and to recognize the maximum height of an accessory structure for the existing garage as a result of the Severance.

The following variances from the provision of Town Zoning By-law 500A-74, as amended, are requested:

1. Minimum lot frontage of 60.96 metres, as required in the Zoning By-law, to 45.6 metres for the proposed new lot; and
2. Maximum height of an accessory structure of 4.5 metres, as required in the Zoning By-law, to 5.3 metres for the existing garage.

The Severance Sketch 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 765 Four Mile Creek Road, located on the northeastern corner of the intersection of Four Mile Creek Road and Line 7 Road, and are serviced by municipal water and a private septic system.

Part 1 has an area of 6,364 square metres and has 45.6 metres of frontage on Four Mile Creek Road and includes an existing single-detached dwelling and two accessory buildings (labelled garage and shed on **Appendix I**).

Part 2 has an area of 72, 285.4 square metres (17.8 acres) and has a combined frontage of approximately 209 metres on Four Mile Creek Road and a combined frontage of approximately 138.5 metres on Line 7 Road. Part 2 is fragmented by the residential parcels known municipally as 892 Line 7 Road and 761 Four Mile Creek Road.

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

### **5. DISCUSSION / ANALYSIS**

Analysis of both the Consent Application and Minor Variance Application are included below.

## 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 the "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).

Section 4.3.3 of the PPS, Section 4.6.1(f) of the Greenbelt Plan, Section 4.1.5.2 of the Niagara Official Plan ("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.

Subsequently, Section 4.1.5.2 of the NOP includes additional detail on the criteria required for consents for a residence surplus to a farm operation, which include:

- a. The proposed lot contains a habitable residence which existed as of December 16, 2004, that is rendered surplus as a result of farm consolidation;
- b. The size of any new lot shall be an area of 0.4 hectares except to the extent of any additional area deemed necessary to support an on-site private water and private sewage disposal system, to a maximum of one hectare;
  - i. Proposals that exceed one hectare may require an amendment to this plan.
- c. To reduce fragmentation of the agricultural land base, the retained lot shall be merged with an abutting parcel. Where merging of two lots is not possible, the retained farm parcel shall be zoned to preclude its use for residential purposes.

The NOP also has general lot creation policies (Section 4.1.4) for proposed residential lots, in addition to the above-noted policies, which include:

- Any new lot has sufficient frontage on an existing publicly-maintained road;
- Where possible, joint use should be made of the existing road access to the farm operation;
- Road access to any new lot does not create a traffic hazard because of limited sight lines on curves or grades or proximities to intersections; and,
- Proposed lots shall be located and configured to minimize impacts on surrounding farming operations.

The Town Official Plan contains requirements for surplus farm dwelling severances, as set out in Section 7.4(4)(e) which require:

- That zoning prohibits in perpetuity any new residential use on the retained parcel of farmland created by the severance, and that the zoning ensures the parcel will continue to be used for agricultural purposes;
- That farms are both within the Town of Niagara-on-the-Lake;
- That the new lot is located to minimize the impact on the remaining farm operation; and,
- That the new lot complies with the Minimum Distance Separation Formula I.

The residential dwelling proposed to be severed has existed long before the date the Greenbelt Plan came into effect (December 15, 2004). The size of the residential lot is 6,364 square metres or 1.57 acres. While this is slightly larger than the standard one (1) acre, the proposed lot is laid out to capture the existing septic bed, proposed replacement area and all buildings on site, and remains well below the one (1) hectare (2.47 acre) limit.

Town Staff received comments from the Niagara Region Private Sewage System staff confirming that proposed residential lot contains sufficient usable spare area for a replacement system and offered no object with the lot configuration. Regional staff noted that the tank had elevated levels and a pump-out and reverification be required to assess the long-term function of the system. A condition has been included to this effect.

Staff note that the remnant farm parcel is bisected by 761 Four Mile Creek Road and 892 Line 7 Road, resulting in a portion of the farm parcel being accessed by a narrow strip of land approximately 4 metres in width. While this layout is unconventional, the proposed severance will not worsen this condition.

Recognizing that the remnant agricultural land (Part 2) will be merged with the adjacent farm known municipally as 916 Line 7 Road, Town staff are satisfied that no additional residential uses will be allowed as a part of the severance and that the lands will continue to be used for Agriculture. Given the lands will be merged, rezoning of Part 2 to Agricultural Production Only is not required.

Town Staff have not identified any livestock facilities within proximity of the subject lands. Staff are satisfied that the MDS I calculation is not applicable to the proposed severance of Part 1.

The proposed residential lot does not meet the required minimum lot frontage of 60.96 metres, or the permitted maximum accessory structure height as permitted in the Zoning By-law, subsequent variances are requested to address these deficiencies, this is addressed under the following Minor Variance analysis in Section 5.2 of this report.

Town Staff recommend conditional approval of the surplus farm dwelling severance, subject to the recommended conditions, and are satisfied the application has regard to Section 51(24) of the *Planning Act*.

## **5.2 Minor Variance Analysis 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 requested variances will not change the existing streetscape, pose adverse impacts to surrounding lands, nor hinder the existing agricultural potential on the subject or adjacent lands. The requested variance in lot frontage allows for a deeper lot to adequately capture all existing buildings on site. The maximum accessory structure height will allow for an existing building to be used as an accessory building to the rural residential use.

Therefore, Staff consider the variances to be minor in nature.

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

Staff are of the opinion that the proposed reduction in lot frontage and requested increase in maximum height for an accessory structure are desirable for the appropriate use of the lands. Despite having a reduced lot frontage, the residential portion (Part 1) has sufficient area to accommodate the rural residential use and associated private servicing. Additionally, the variance for the maximum accessory building for the garage will recognize an existing condition of the structure.

Town staff consider the requested variances desirable for the appropriate use of the lands.

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

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

The existing dwelling and one of the accessory buildings/structures on the subject property meets the required setbacks and other provisions of the Rural (A) Zone. The requested variances will recognize the existing accessory building (garage) and allow for a reduced lot frontage.

The intent of the lot frontage provision is to ensure sufficient area for the rural residential uses and maintain the rural character of the area. The reduced lot frontage will allow for sufficient turn around area for crops and ensure the lot configuration adequately captures the existing dwelling, accessory structures, and sufficient area for the septic.

The garage is measured as 5.3 metres in height to the midpoint of the roof, whereas the By-law permits a maximum of 4.5 metres. The garage has existed long before the in effect by-law and has functioned with no known issues.

Town staff maintain that the variances will help facilitate the surplus farm dwelling severance and allow for continued support for agriculture and will not adversely impact land use compatibility issues; therefore, staff consider the variances 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 By-law?**

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 variances do not conflict with the goals and objectives of the Agricultural designation identified in the Official Plan. The lot maintains sufficient area to accommodate private services, as confirmed by Regional Private Sewage System Staff. The lot configuration is not anticipated to have any impact on the viability of surrounding agricultural uses. Despite the exceedance in height, the existing accessory structure (garage) will remain secondary to the residential use. Town Staff consider the variances 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 applications were 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 – No objection, requested that the driveway location of the proposed severance be confirmed by a survey and be moved northward if necessary to ensure a minimum 1 metre interior side yard setback from the property line. The shifting of the driveway northward will warrant the installation of a new water line to ensure the line is not underneath the driveway.

#### Agencies

Niagara Region – No objection, a condition requesting the applicant/owner have the tank pumped out and an additional inspection take place to confirm the long-term functionality of the septic system was noted and included. Niagara Region staff were satisfied that the proposed lot size is sufficient to accommodate the existing residential dwelling. Any changes to the entrance will require an entrance permit.

Hydro One – No objection.

Niagara Region – No objection.

## **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 Applications

**8. FINANCIAL IMPLICATIONS**

Not applicable.

**9. ENVIRONMENTAL IMPLICATIONS**

No vegetation will be impacted by the Consent and Minor Variance applications.

**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**

Planning, Building, and Development Services Staff recommend approval of Consent Application B-03/26 and Minor Variance Application A-04/26 for 765 Four Mile Creek Road, subject to the recommended conditions, as the applications meet the *Planning Act* requirements, are consistent with the PPS, and conform 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:**



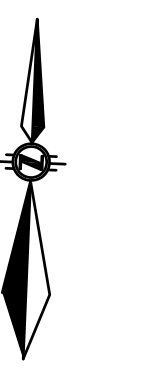
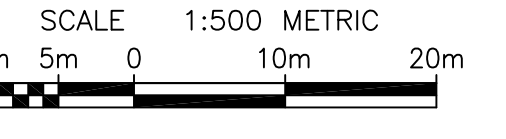
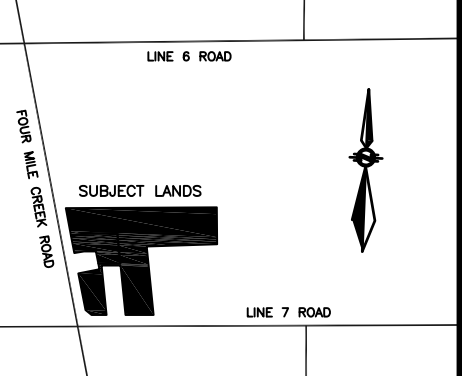
**Alex Boekestyn, MSc.  
Planner II**

**Recommended by:**



**Taya Devlin, RPP, MCIP  
Manager of Planning  
Planning, Building & Development  
Services**

PRELIMINARY SKETCH TO ACCOMPANY AN APPLICATION UNDER THE PLANNING ACT  
PART OF TOWNSHIP LOT 83  
(GEOGRAPHIC TOWNSHIP OF NIAGARA)  
TOWN OF NIAGARA-ON-THE LAKE  
REGIONAL MUNICIPALITY OF NIAGARA



TOWNSHIP LOT 83

PIN 46377-0008(LT)  
EXISTING AGRICULTURAL

N8723'10"E 443.987

EXISTING AGRICULTURAL  
PIN 46377-0119(LT)  
PART 2, SQR-4902

PART 2  
AREA = 72,285.4 m<sup>2</sup>

N54'50"W 108.238

N85'45'10"E 206.858

TOWNSHIP LOT 83

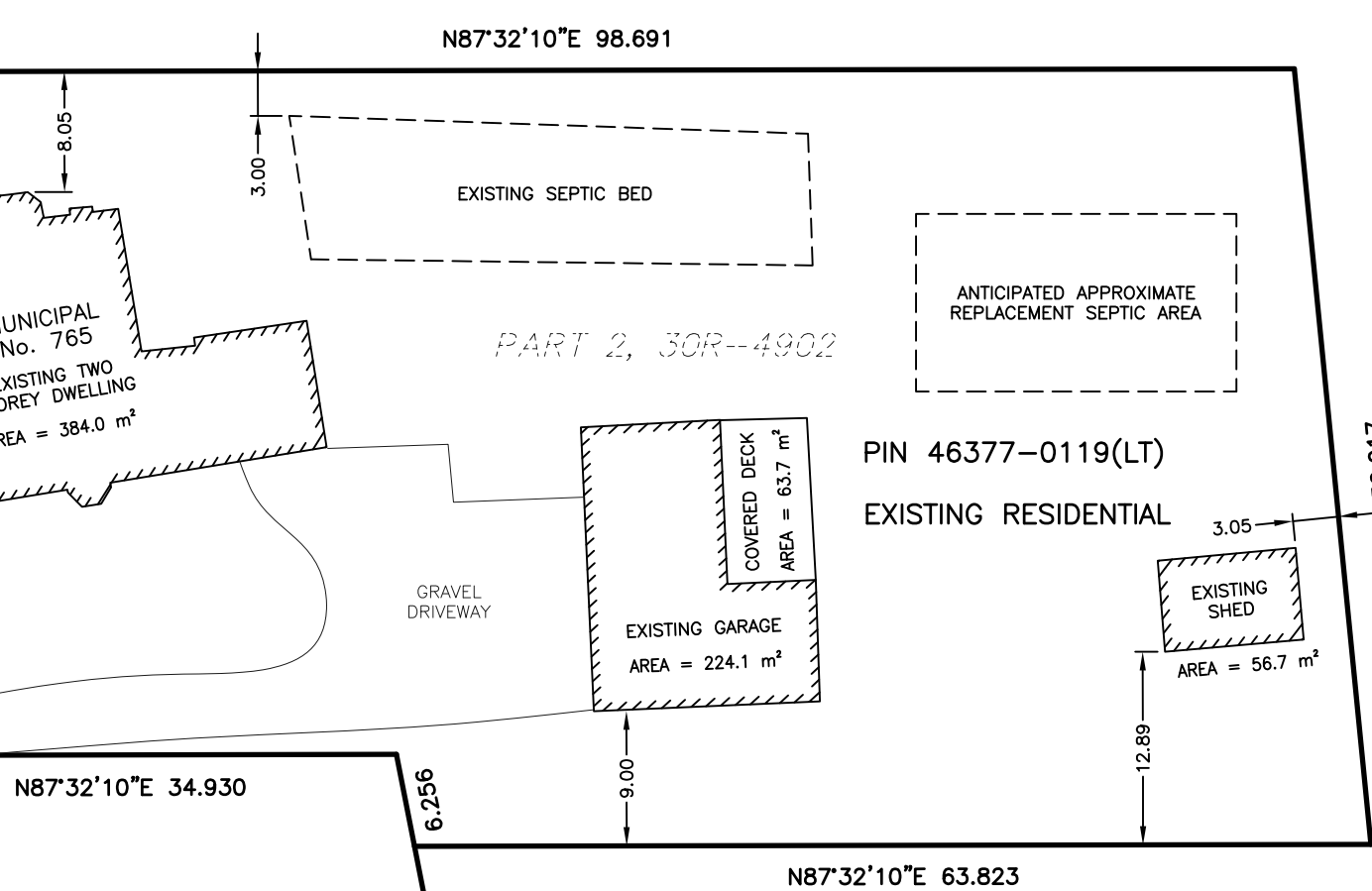
PIN 46377-0012(LT)  
EXISTING AGRICULTURAL

PART 2, SQR-4902  
PIN 46377-0119(LT)

PART 2  
AREA = 72,285.4 m<sup>2</sup>

PIN 46377-0011(LT)  
EXISTING AGRICULTURAL

N89'00'00"W 302.333



PART 1  
AREA = 6,364.0 m<sup>2</sup>

EXISTING RESIDENTIAL  
PART 1, SQR-4902  
PIN 46377-0009(LT)

EXISTING AGRICULTURAL  
PART 2, SQR-4902  
PIN 46377-0119(LT)  
PART 2  
AREA = 72,285.4 m<sup>2</sup>

EXISTING RESIDENTIAL  
PIN 46377-0010(LT)

EXISTING AGRICULTURAL

N87'39'10"E 43.8560

N87'39'10"E 82.784

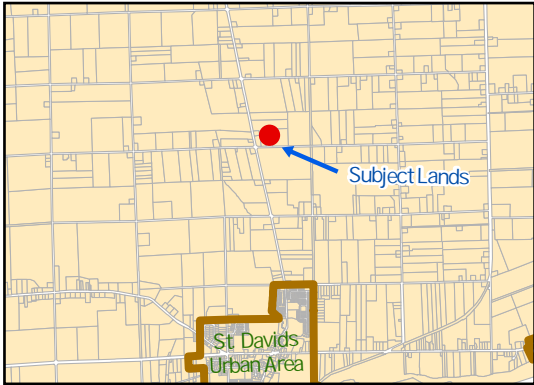
LINE 7 ROAD

(AS LOCALLY KNOWN)  
(ROAD ALLIANCE BETWEEN TOWNSHIP LOTS 83 & 84)  
(PUBLIC TRAVELLED ROAD, 20.117 M00)  
PIN 46377-0036(LT)

REGIONAL ROAD No. 100  
FOUR MILE CREEK ROAD  
(PIN 46377-0001(LT))  
(AS LOCALLY KNOWN)  
(ROAD ALLIANCE BETWEEN TOWNSHIP LOTS 83 & 84)  
(PUBLIC TRAVELLED ROAD, 20.117 M00)

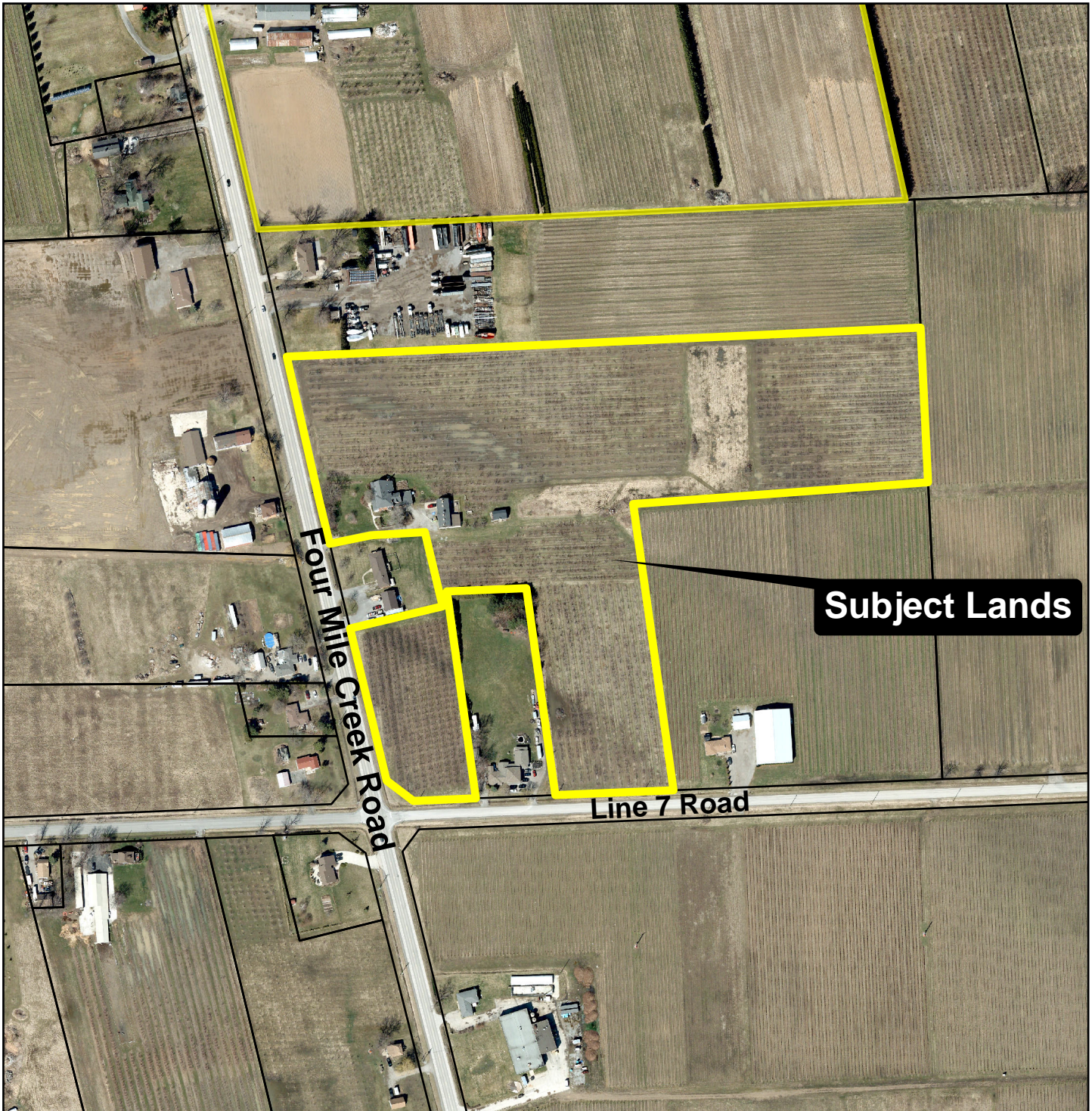
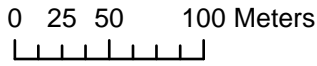
FEBRUARY 10, 2026 BRENT LAROUCHE  
O.L.S.  
RICHARD LAROUCHE LIMITED  
ONTARIO LAND SURVEYORS & CONSULTANTS  
12 LYMAN STREET, ST. CATHARINES, ONTARIO  
905-688-7413  
6385 COLBORNE STREET, NIAGARA FALLS, ONTARIO  
905-358-8400  
www.larocque.ca

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 LAROUCHE LIMITED No person may copy, reproduce or alter this plan in whole or in part without the written permission of RICHARD LAROUCHE LIMITED.	DRAWN BY: D.B.	CHECKED BY: B.L.	DATE: FEB. 10, 2026	FILE: 2025-110 DWG. FILE: 2025-110-03
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**Map 1: LOCATION MAP**  
765 Four Mile Creek Road  
File No: B-03-2026

Scale: 1:4,000



**From:** [REDACTED]  
**To:** [Natalie Thomson](#)  
**Subject:** Fwd: Driveway and tree line.  
**Date:** April 15, 2026 8:52:03 AM

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**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.

Good morning Natalie

I am forwarding this note from my neighbour.

He owns 761 creek road and is the adjacent property owner.

Joe

----- Forwarded message -----

**From:** Wayne <[REDACTED]>  
**Date:** Tue, Apr 14, 2026, 3:33 PM  
**Subject:** Driveway and tree line.  
**To:** <[REDACTED]>

Too whom it may concern

I am the owner and occupant of 761 four mile creek rd.

I am aware of the driveway on the Northside of our lot.

The driveway was present when we purchased the property.

The cedar along the north edge of property were approved when planted and are on the adjacent property.

We are ok with the driveway not being 1 meter from the line. As it was there before our lot was severed.

Thank you .

Wayne

Wayne Jefferys  
Owner  
[www.classehroofing.ca](http://www.classehroofing.ca)  
Niagara-On-The-Lake, ON  
[REDACTED]



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And/or a review on Yelp by clicking the link [HERE](#)



## 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 #:** PBDS-26-016 **COMMITTEE DATE:** 2026-04-16  
**DUE IN COUNCIL:** N/A  
**REPORT TO:** Committee of Adjustment  
**SUBJECT:** Consent Application B-04/26 and Minor Variance Application A-06/26 – 28  
Clarence Street and 4 Queenston Street

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-04/26 be approved, subject to the following conditions:
  - 1.1.1 That the owner/applicant provides a legal description of Part 3, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Planning, Building, and Development Services, 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 parcels of lands (Part 3); that Part 3 is merged in title with Part 2 and they become one parcel of land; and that the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building and Development Services, that Part 3 shall be conveyed to the owner of Part 2 and to prepare and register the application(s) to consolidate the lands and forward a copy of receipted application(s) within two years of issuance of the consent certificates;
  - 1.1.3 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 3, has been carried out, the documentation to be provided within two years of issuance of the consent certificates, or prior to the issuance of a building permit, whichever occurs first; and
  - 1.1.4 That Minor Variance Application A-06/26 be approved.
- 1.2 Minor Variance Application A-06/26 be approved.

### 2. EXECUTIVE SUMMARY

Staff have received a Consent Application submitted pursuant to Section 53(12) of the *Planning Act* proposing to convey a portion of land (Part 2) from lands known municipally as 28

Clarence Street (Part 1) to the adjacent parcel known municipally as 4 Queenston Street (Part 3). Part 2 is to be used to improve buffering between adjacent parcels.

Minor Variance Application (A-06/26) has been submitted under Section 45 of the *Planning Act* and is required to permit the existing vegetation to serve as the required screening in lieu of a 1.5 metres tall wood privacy fence between residential and commercial properties.

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

### **3. PURPOSE**

The applicant is proposing to convey a portion of land from 28 Clarence Street to 4 Queenston Street to improve the formal frontage of 4 Queenston Street and associated landscaping to permit ownership and long term-term maintenance of the buffer. The existing dwelling on 28 Clarence Street will remain, as will the existing residential and commercial uses on 4 Queenston Street.

In order to facilitate the severance as proposed, the following variance from the provisions of the Town By-law 4316-09, as amended, is required for 4 Queenston Street (Part 3):

1. To permit the existing vegetation to serve as the required screening in lieu of a 1.5-metre-high wood screen privacy fence required at the interface between residential and commercial properties as required under Zoning By-law 4316-09.

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 28 Clarence Street and 4 Queenston Street. 28 Clarence Street is located on the northeast corner of Clarence Street and Queenston Street. 4 Queenston Street is located directly north of 28 Clarence Street on the east side of Queenston Street.

28 Clarence Street (Part 1) has an area of 762.83 square metres, and 23.48 metres of frontage on Clarence Street, and 30.47 metres of flankage on Queenston Street. The property will remain in its existing residential condition with no changes proposed to the dwelling as a part of this application.

4 Queenston Street (Part 3) has an area of 765.22 square metres and 18.3 square metres of frontage on Queenston Street. The property will continue to accommodate the existing residential and commercial (Canada Post) uses and are not proposed to change as a part of this application.

Part 2 is to be severed from Part 1 and merged with Part 3 and has an area of 161.07 square metres, and no new lots will be created as a part of this application.

The surrounding lands consist primarily of residential dwellings with limited commercial uses to the north. The lands to the southwest include the Mackenzie Printery and Newspaper Museum.

## **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 with a “Settlement Area.” The subject lands are within the Niagara Escarpment Plan (“NEP”) area and are designated as a Minor Urban Centre (Queenston). The subject lands are designated “Delineated Built-up Area” in the Niagara Official Plan (2022). 28 Clarence Street is designated as “Established Residential” in the Town of Niagara-on-the-Lake Official Plan (2017 Consolidation, as amended), whereas 4 Queenston Street is designated as “General Commercial”.

The proposed boundary adjustment seeks to convey a 6-metre-wide strip of land (Part 2) from 28 Clarence Street to 4 Queenston Street. This adjustment will provide a larger buffer between the two properties and improve the frontage for 4 Queenston Street. The existing vegetation on Part 2, located between the two properties, will become associated with 4 Queenston Street.

No new lots are being created through the proposed boundary adjustment, and no redevelopment is proposed. Both reconfigured lots will maintain sufficient area and frontage to accommodate their respective uses. No existing trees will be impacted as a result of this application.

Staff note that no rezoning or redesignation is proposed as part of this boundary adjustment. As such, any future development on 4 Queenston Street will require additional planning applications to ensure the entire parcel is appropriately designated. Part 2 will function as a natural buffer between the two properties.

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

#### **1. Are the requested variance minors in nature?**

The existing vegetation is well established and provides adequate visual screening between the respective properties. The variance requests to forgo the fence between the commercial and residential properties, and is being mitigated by the use of the established existing vegetation. Recognizing that no new construction or building alterations are being proposed as a part of the applications, Town staff are of the opinion that requested variance is minor in nature.

#### **2. Are the requested variances desirable for the appropriate development or use of the**

**land, building or structure?**

The requested variance is desirable for the appropriate use of the lands, as the boundary adjustment will allow the existing vegetation to be formally recognized. Given that the variance primarily recognizes the existing condition, staff are of the opinion that it is appropriate and desirable for the continued use of the lands.

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

The requested variance is a result of the proposed boundary adjustment. Section 8.5.3 of the Zoning By-law requires that, at the interface between commercial and residential properties, the commercial property provide a landscape buffer consisting of a wooden privacy fence and a 1.5-metre-deep landscaped strip.

The variance requests permission to utilize the existing vegetated condition as the buffer between the respective properties. Staff note that, aside from the conveyance of land, no physical changes are proposed. The strip of land being conveyed will act as a larger buffer between the properties and will help ensure continued compatibility. As Part 2 will not be rezoned, commercial uses will not be permitted on this portion of the lands, further ensuring adequate buffering between the two properties.

Town staff are of the opinion that the requested variance maintains the intent of the Zoning By-law.

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

4 Queenston Street is designated “Delineated Built-up Area” in the Niagara Official Plan (the “NOP”) and “General Commercial” in the Town Official Plan (2017). 28 Clarence Street is designated “Delineated Built-up Area” in the NOP and “Established Residential” in the Town Official Plan.

The proposed boundary adjustment does not seek to redesignate the lands being conveyed from 28 Clarence Street, and these lands will remain within the Established Residential designation. The requested variance will allow the existing vegetated buffer to be formalized as part of the commercial property at 4 Queenston Street.

Town staff are of the opinion that the proposal maintains the general intent and purpose of the Official Plan.

**5.3 Town, Agency and Public Comments**

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

Town Departments

Building – No objection.

Finance – No objection.

Fire – No objection.

Heritage - No objection.

Public Works – No objections.

Agencies

Enbridge – No objection.

Hydro One – No objection.

Niagara Escarpment Commission - No objection.

Public

No public comments were received at the time of preparing this report.

**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 or Minor Variance(s) and/or conditions.

**8. FINANCIAL IMPLICATIONS**

The owner/applicant is responsible for any fees and costs associated with clearing conditions, including payment.

**9. ENVIRONMENTAL IMPLICATIONS**

There are no anticipated environmental impacts. No vegetation is being removed as a part of the boundary adjustment.

**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**

Planning, Building, and Development Services Staff recommend approval of Consent Application B-04/26 and Minor Variance Application A-06/26 for 28 Clarence Street and 4 Queenston Street, subject to the recommended conditions, as the applications meet the *Planning Act* requirements, are consistent with the PPS, and conform with the Niagara Official Plan, and the Town Official Plan.

**12. APPENDICES**

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

Respectfully submitted:

**Prepared by:**

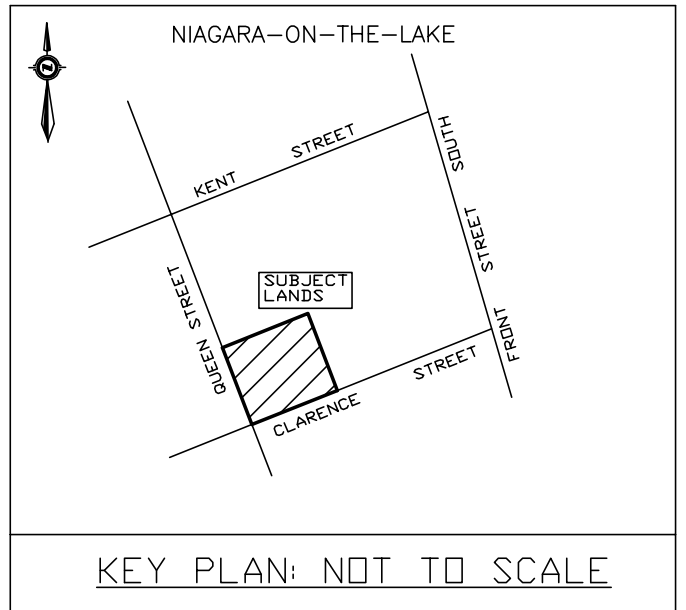
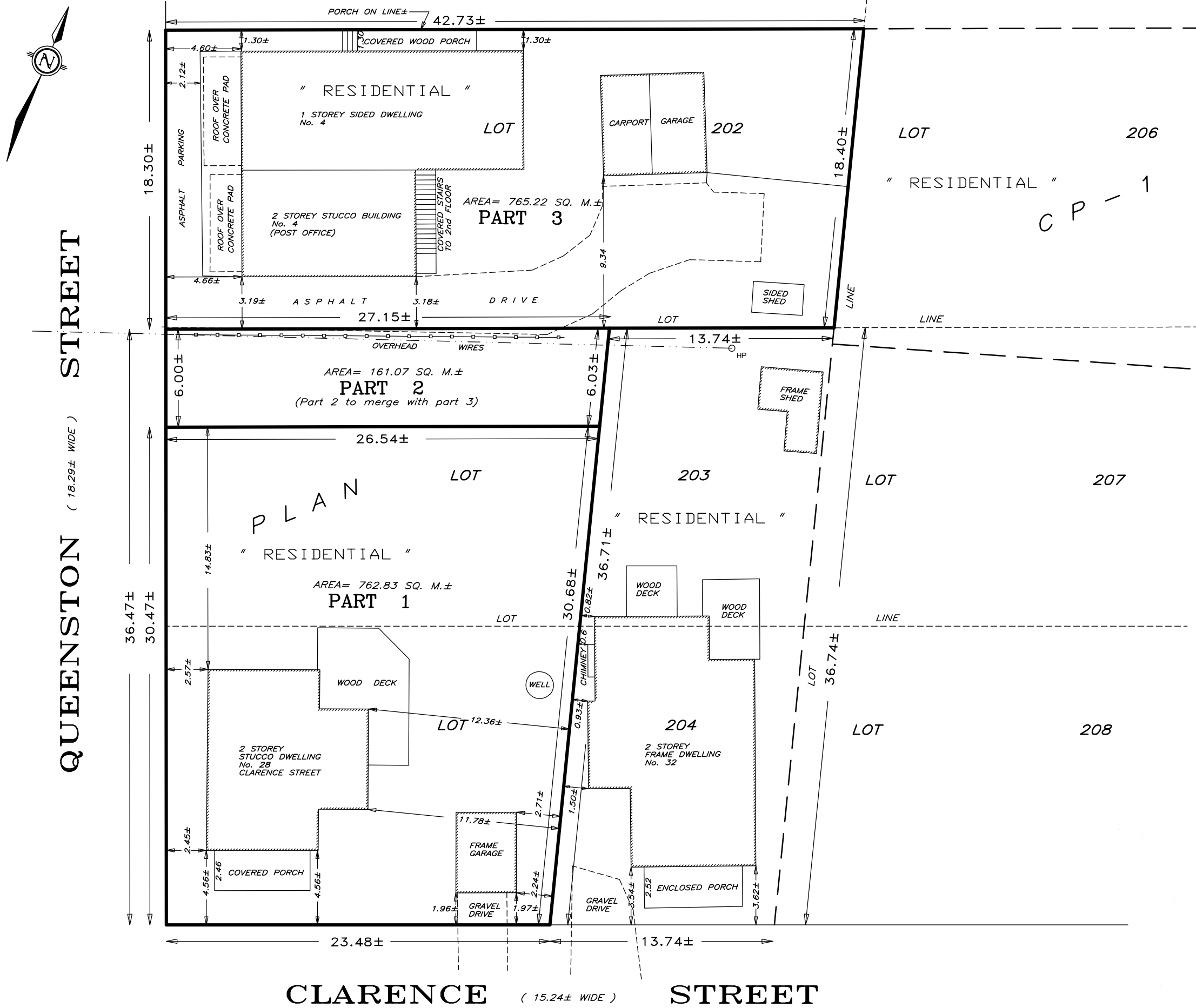


**Alex Boekestyn, MSc.,  
Planner II**

**Recommended by:**



**Taya Devlin, RPP, MCIP  
Manager of Planning  
Planning, Building & Development  
Services**



COMMITTEE OF ADJUSTMENT APPLICATION  
**PART OF LOTS 203 AND 204,**  
**CORPORATION PLAN No. 1**  
 IN THE  
**TOWN OF NIAGARA-ON-THE-LAKE**  
 REGIONAL MUNICIPALITY OF NIAGARA  
 SCALE: 1 : 250

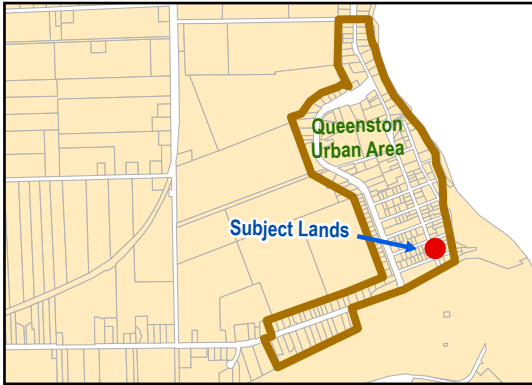
2026

**CAUTION:** THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED FOR ANY OTHER PURPOSE EXCEPT AS STATED IN THE TITLE BLOCK  
 THIS SKETCH IS NOT VALID UNLESS EMBOSSED BY A SURVEYOR'S SEAL.

*Philip S. Suda*  
 February 26, 2026  
 PHILIP S. SUDA O.L.S. DATE

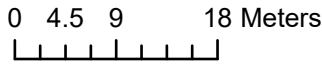
**SUDA & MALESZYK SURVEYING INC.**  
 ONTARIO LAND SURVEYORS  
 26 EAST MAIN STREET, SUITE 2  
 WELLAND, ONTARIO L3B 3W3  
 TEL: (905) 732-7651

FILE: 26-13 JOB No: 6938



**Map 1: LOCATION MAP**  
28 Clarence St & 4 Queenston St  
File No: B-03-2026

Scale: 1:671





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## COMMITTEE OF ADJUSTMENT MEETING MINUTES

March 19, 2026, 6:00 p.m.

Members Present: Margaret Louter, Angelo Miniaci, Eric Lehtinen, Paul Johnston,  
Chris Van de Laar, Natalie Early

Members Absent: Steve Bartolini

Staff Present: Natalie Thomson, Aimee Alderman, Alex Boekestyn, Connor  
Maclsaac

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### 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: Chris Van de Laar

Seconded by: Angelo Miniaci

that the agenda be adopted, as presented.

**APPROVED**

### 3. CONFLICT OF INTEREST

#### 3.1 Margaret Louter - CONFLICT OF INTEREST

Item 5.2 File B-01/26 and B-02/26. A professional connection with one of the parties involved in the application.

### 4. REQUEST FOR WITHDRAWAL OR ADJOURNMENT

There were no requests.

### 5. APPLICATIONS

**5.1 Minor Variance Application A-01/26 and Fence Variance Application A-01-26 – 513 Gate Street, CDS-26-042**

Natalie Thomson summarized the notice and mentioned one comment received from a neighbour.

Connor MacIsaac summarized the staff report and noted the removal of minor variance request #2 as the pool equipment is to be relocated to a different area that is permitted in the Zoning By-Law.

Andrew Prowse (home owner) 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.

Committee members did not have any questions.

Moved by: Angelo Miniaci

Seconded by: Chris Van de Laar

To accept the modified recommendation of the staff report to remove variance request #2 and that Minor Variance A-01/24 and Fence Variance Fv-02/24 be approved.

**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:

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

The Chair summarized the decision.

**5.2 Consent Applications B-01/26 and B-02/26 – Lands West of 228 East and West Line, CDS-26-048**

Margaret Louter existed the room at 6:11pm due to a declared conflict.

Natalie Thomson summarized the notice.

Alex Boekestyn summarized the staff report.

Navleen Kaur and Aaron Butler (NPG Planning Solutions Inc.) were present on behalf of the application. Navleen delivered a brief presentation.

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:

- Configuration of proposed new lot lines

Moved by: Natalie Early

Seconded by: Angelo Miniaci

To accept the recommendation of the staff report that Consent Application B-01/26 be approved subject to the following conditions:

1. That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Planning, Building and Development Services, for use in the issuance of the Certificates of Consent;
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 parcels of lands (Part 2); that Part 2 is merged in title with Part 5 and they become one parcel of land; and that the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building and Development Services, that Part 2 shall be conveyed to the owner of Part 5 and to prepare and register the application(s) to consolidate the lands and forward a copy of receipted application(s) within two years of issuance of the consent certificates;
3. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 2, has been

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

and that Consent Application B-02/26 be approved subject to the following conditions.

4. That the owner/applicant provides a legal description of Part 3, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Planning, Building and Development Services, for use in the issuance of the Certificates of Consent;
5. 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 parcels of lands (Part 3); that Part 3 is merged in title with Part 4 and they become one parcel of land; and that the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building and Development Services, that Part 3 shall be conveyed to the owner of Part 4 and to prepare and register the application(s) to consolidate the lands and forward a copy of receipted application(s) within two years of issuance of the consent certificates; and,
6. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 3, has been carried out, the documentation to be provided within two years of issuance of the consent certificates, or prior to the issuance of a building permit, whichever occurs first.

**Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.**

**Reasons:** The Committee of Adjustment agrees with the consent report analysis and recommendation that, subject to the conditions of provisional consent, these applications meet Planning Act requirements, are consistent with the Provincial Planning Statement, and conforms with the

Greenbelt Plan, Niagara Region Official Plan and the Town Official Plan regarding the boundary adjustments.

The Chair summarized the decision.

**6. MINUTES FOR APPROVAL**

Margaret Louter rejoined the meeting at 6:20pm.

The February 19, 2026 minutes were approved by unanimous consent.

**7. STAFF UPDATES**

There were no staff updates.

**8. NEXT MEETING DATE**

Thursday, April 16, 2026 at 6:00pm.

**9. ADJOURNMENT**

The meeting was adjourned at 6:22 pm.