



Town of Niagara-on-the-Lake

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

REPORT #: CDS-23-235 **COMMITTEE DATE:** 2023-12-05
REPORT TO: COTW-Planning **DUE IN COUNCIL:** 2023-12-12
SUBJECT: 1436 & 1442 York Road
Zoning By-law Amendment ZBA-17-2023

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Application for Zoning By-law Amendment (File No. ZBA-17-2023) for lands known municipally as 1436 & 1442 York Road be approved as detailed in this report; and
- 1.2 The draft Zoning By-law Amendment, attached as **Appendix IV** to this report, be forwarded to Council for adoption.

2. EXECUTIVE SUMMARY

- This report provides a Staff recommendation to the Committee and Council regarding an application for a Zoning By-law Amendment (the “Application”) for 1436 & 1442 York Road.
- The Application requests to rezone the subject lands from “St. Davids Community Zoning District – Institutional (I)” to “St. Davids Community Zoning District – Residential (R1) Site-Specific Zones” and “Open Space (OS) Site-Specific Zone” to facilitate the conversion of the existing church into a residence and to recognize the existing dwelling.
- The Application is required to permit a concurrent consent application to sever the lot into two lots. One lot with the existing dwelling (former manse) would contain a site-specific provision to recognize the non-conformity of the maximum front yard setback. One lot with the existing church building (future residence) would have site-specific provisions for a minimum front yard setback and maximum width of garage face. The conservation area traversing the western boundary of the lot would be zoned Open Space (OS) for ongoing environmental preservation.
- Staff recommends approval of the Application, as detailed in this report, as the proposal conforms to *Planning Act* requirements, is consistent with the Provincial Policy Statement and conforms to Provincial, Regional and Town planning legislation.

3. PURPOSE

This report provides recommendations to the Committee and Council respecting an application under the *Planning Act* seeking approval of a Zoning By-law Amendment to rezone the subject lands to a “Residential (R1) Site-Specific Zone” and an “Open Space (OS) Site-Specific Zone”

to facilitate the creation of a new lot for a total of two residential lots. The existing church building would be converted for residential use.

A Survey Sketch showing the proposed Parts, dwelling conversion and existing building footprints is attached as **Appendix I** to this report.

4. BACKGROUND

The subject lands are located on the north side of York Road, east of Four Mile Creek Road, within the urban area of St. Davids. The subject lands have a total lot area of approximately 3,129 square metres and a lot frontage of 43.28 metres along York Road.

Part 1 is proposed to have a lot area of 1,302 square metres and a frontage of 30.45 metres on York Road. The lot contains an existing one-storey, single-detached dwelling, formerly the manse associated with the adjacent church.

Part 2 is proposed to have a lot area of 1,680.5 square metres and a frontage of 22.24 metres on York Road. The lot contains an existing church building that is proposed to be converted to a residential dwelling. The church building is listed on the Municipal Heritage Register. Valleylands of Four Mile Creek traverse the western boundary of the lot and are regulated by the Niagara Peninsula Conservation Authority (“NPCA”).

Part 3 is a 3.05-metre road widening requested by the Region across the frontage of the property, and it is approximately 146.4 square metres. The widening is required to recognize the existing Regional watermain and will be conveyed as part of the consent process.

The buildings on the lands are connected to municipal water and sanitary services. The surrounding lands are characterized by open space, conservation and residential uses.

The subject lands are shown on **Map 1** of **Appendix II** of this report.

5. DISCUSSION / ANALYSIS

5.1 Policy and Legislative Framework

The Application has been evaluated for consistency and conformity with the relevant Provincial, Regional, and local planning policies and legislation, as discussed in the following report sections. Applicable planning legislation and policies are provided in **Appendix III** to this report.

5.1.1 *Planning Act, R.S.O. 1990, c. P.13*

The Application supports matters of provincial interest, is consistent with policy statements and conforms to provincial plans and Official Plans, as demonstrated in the analysis provided in the following sections of this report.

5.1.2 Provincial and Regional Planning Documents

The subject lands are designated as being within a “Settlement Area” according to the Provincial Policy Statement (the “PPS”) and are within a “Settlement Area” and “Delineated Built-Up Area” according to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (the “Growth Plan”). The Niagara Escarpment Plan (the “NEP”) designates the lands as being within the St.

Davids Minor Urban Centre, with an underlying designation of Escarpment Rural Area, per Map 1 of the NEP. The Niagara Official Plan, 2022 (the “NOP”), designates the subject lands as being within the “Delineated Built-Up Area”.

Policies in these plans support residential intensification within urban and built-up areas subject to criteria, such as demonstrating that the proposal is appropriate in relation to the surrounding area and achieving the goals of the applicable legislative documents. This also includes the protection of the Niagara Escarpment and natural and cultural heritage resources.

The Application would facilitate a more efficient use of lands, public facilities and municipal infrastructure. This proposal is considered as minor residential infill, as the lands are currently one large parcel within the urban area. The overall goal of complete communities is being achieved by providing additional housing options where there is convenient access to services, employment, parks, and other public facilities. The lands are located in the Established Village area of St. Davids and the infill would promote and encourage active transportation by allowing residents to easily access a variety of shops, services and parks nearby.

A Stage 1-2 Archaeological Assessment, prepared by Detritus Consulting Ltd., dated July 20, 2022, was completed for the subject lands and concluded that no further assessment is required on the lands. A Ministry Letter is still required to confirm that the work was completed in accordance with Provincial requirements. The submission of this letter will be made a condition of approval for the concurrent Consent Application B-33/23.

A Slope Stability Assessment, prepared by Soil-Mat Engineers & Consultants Ltd., dated February 1, 2023, confirmed that the boundaries of the established top of slope are stable in both the short and long-term to support the proposed development. This assessment was circulated to the NPCA for review and comment. NPCA staff did not offer any objections to the calculated location of the stable top of slope.

A Heritage Impact Assessment (the “HIA”), prepared by Megan Hobson, dated January 22, 2023, was submitted with the application to outline potential impacts to the heritage value of the property and propose recommendations in the form of mitigation and conservation measures. Further discussion and analysis on the cultural heritage of the property and the HIA is provided in Section 5.2 of this report.

The NOP outlines a minimum population of 28,900 people and 17,610 jobs in Niagara-on-the-Lake by the year 2051. Furthermore, an intensification target of 1,150 units (or rate of 25%) is designated for the Town. The Application would provide additional housing options and contribute to the forecasted growth and intensification targets of the Region by facilitating residential infill in an urban area to make more efficient use of land, services, and infrastructure.

Staff consider the Application to be consistent with the PPS and conform with the Growth Plan, the NEP and the NOP.

5.1.3 Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended

The subject lands are designated “Conservation,” “Low Density Residential” and “Built-up Area” in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended (the “Town OP”). The lands are also within the St. Davids Special Policy Area and are further designated as being within the “Established Village Area” of St. Davids. The Town OP designation on the subject lands is shown on **Map 2 of Appendix II** to this report.

The Application would allow for the creation of one new residential lot, for a total of two lots, and results in a net density of 6.7 units per hectare (2.71 units per acre). This is consistent with the Town OP policies for residential land use in Special Policy Area A-3 (St. Davids) and the residential density in the Low Density Residential designation, where low density developments will not exceed 6 units per acre.

The proposal supports additional growth and would further contribute to the Town’s intensification target of 15% within the Built-up Area. The Application facilitates more efficient use of land and services by creating a new lot for minor residential infill from an oversized, underutilized parcel that has sufficient frontage on a public street. The lots are compatible with the surrounding land uses and are similarly sized to adjacent residential properties.

The Special Policy Area directs infill development to be designed in a manner that is consistent with the urban design guidelines adopted by Council. The Village of St. Davids Urban Design Guidelines (2005) provide direction for new residential built form in the public realm, more specifically for single-detached dwellings, accessory buildings and their configurations. Guidelines are outlined for additions and renovations to existing buildings, garages and setbacks for new dwellings.

With regards to the infill guidelines of additions and renovations, the proposed addition should match materials used in the original building, and a distinction between old and new should not be obvious to the casual observer. The design of the addition to the old church building is subject to review by the Municipal Heritage Committee and their comments on the proposal are discussed in Section 5.2 of this report.

Garage guidelines outline that new garages should be built as separate buildings recessed from the dwelling and should complement the character of the house. Further, garage doors shall not occupy more than 50% of the façade of the dwelling and be setback at least 1 metre from the façade. The proposed 3-car garage is separated from the dwelling by a common entry breezeway and is setback substantially from the front façade of the dwelling. It does not dominate the streetscape, as it remains behind the existing church and proposed addition. The total garage door width is 9.22 metres (10.4 metres garage face width), whereas the façade of the dwelling is 8.64 metres. While this guideline is not being met, Staff recognize that the location and setback of the garage is large enough for the width of the garage doors to not appear as though they are larger than the façade of the dwelling. Therefore, the intent of the guideline is being met.

The guidelines for new residential built form direct that rear yard amenity areas should have a minimum depth of 5.5 metres and that a single-detached dwelling has a minimum amenity area of 50 square metres. Sufficient amenity area is being provided to the rear and sides of the

proposed dwelling and garage. The proposed decks to the west of the proposed dwelling would also count towards amenity area. While these areas are not located in the rear yard, Staff are of the opinion that the intent of this guideline is still being met by providing sufficient space for amenity outside of the stable top of slope conservation boundary.

While Part 2 is fully designated as “Conservation” in the Town OP, it is recognized that the boundary of the conservation designation shall be the top of the bank adjacent to the valleyland area. The boundary is based on a geotechnical study conducted to determine the stable top of slope and no development is permitted within this area. The proposed development is limited to the areas outside of the conservation boundaries.

The applicant submitted a Planning Justification Report, prepared by Jennifer Vida (dated October 2023), which provides analysis in relation to applicable Town policies and guidelines, and outlines any potential impacts to the surrounding area and streetscape as a result of the proposed development. The analysis in the PJR report is similar to the analysis provided by Staff above and concludes that the proposal is not anticipated to pose adverse impacts to the streetscape and surrounding lands, including the natural environmental features and its ecological functions. The church building will remain the focal point of the lands to preserve its heritage value.

Staff consider the Application to conform to the relevant policies of the Town OP and the St. Davids Urban Design Guidelines.

5.1.4 Town of Niagara-on-the-Lake Proposed Official Plan, 2019

Council adopted a proposed new Official Plan in November 2019. The proposed Official Plan has not been approved and is therefore not in effect but represents Council’s intent. The subject lands are designated “Residential”, “Community Facilities” and “Conservation” in the proposed Town of Niagara-on-the-Lake Official Plan (the “proposed Town OP”). The proposed OP has similar and complementary policies as contained in the existing Official Plan relating to intensification, efficient use of land and infrastructure and compatibility criteria, as well as the preservation of natural features.

5.2 Municipal Heritage Committee Review

The subject lands at 1436 York Road are listed in the Municipal Heritage Register and the existing church building contains heritage value. The HIA, prepared by Megan Hobson (January 22, 2023), assessed potential impacts to the heritage value of the property based on the proposed development and provided recommendations for mitigation and conservation measures. The Town’s Municipal Heritage Committee (MHC) considered the HIA and a Staff Report on October 4, 2023. The Committee’s recommendations were endorsed by Town Council on October 24, 2023, and are summarized as follows:

- The Municipal Heritage Committee provide input to Staff on the potential for heritage designation, and impacts to the heritage value and heritage attributes of the subject property as a result of the proposed development;
- The applicant considers revisions to the proposed designs that better complement and conserve the historic dwelling;

- The recommendations proposed within the HIA be considered for implementation through conditions of any future *Planning Act* application for severance;
- A letter be sent on behalf of the Town for a separate access driveway for each dwelling; and
- Endorse the intent of this reuse as a single-family dwelling.

The Committee did not move designation for the existing church building. A Development Agreement will be required as a condition of approval of the associated Consent Application in order to incorporate the recommendations outlined in the HIA provided by Megan Hobson (January 22, 2023). The owner will enter into a Development Agreement to fulfil the following requirements of a “Conservation Plan”:

- A demolition plan for removal of the rear addition that includes protection measures for the heritage building by a heritage engineer
- Detailed architectural drawings for the proposed alterations including structural drawings by a heritage engineer and a site plan that shows site grading, drainage, paving and landscaping
- Masonry specifications for repairs and alterations by a heritage masonry expert for the following:
 - new openings through the exterior load bearing walls
 - additional loading on exterior masonry walls to support the loft area within the interior
 - appropriate mortars and sealants
- Designs and specifications for new exterior doors and windows that are compatible with the architectural character of the heritage building
- Material samples for the primary cladding materials
- An alternate design for alterations to the west elevation and porch addition that better reflects the symmetry and character of the original design

With respect to the letter for the access of both lots, Town Staff met with the applicants and Regional Staff to address the concerns that the Region raised with the proposed accesses. Following this meeting, Staff worked with the applicant to come to a resolution on a safe, viable access configuration for both lots. The lots are proposed to have separate accesses, and the Region is in support of the proposed locations in relation to the future Regional work on the intersection of York Road and Four Mile Creek Road; therefore, no letter is required and the separate driveways are shown on the Survey Sketch, attached as **Appendix I**.

5.3 Niagara-on-the-Lake Zoning By-law 4316-09, as amended

The subject lands are zoned “St. Davids Community Zoning District – Institutional (I)” in Zoning By-law 4316-09, as amended. The applicable zoning of the subject lands is shown on **Map 3 of Appendix II** of this report.

The existing zoning of the lands permits a church or religious institution and a dwelling unit secondary to a permitted use. The proposed Zoning By-law Amendment requests to rezone the subject lands to “St. Davids Community Zoning District – Residential (R1) Site-Specific Zones” and “Open Space (OS) Site-Specific Zone” to permit the creation of one new lot, for a total of two lots, for residential use. Site-specific provisions are required to recognize the existing

buildings and proposed development. The following site-specific R1 Zone provisions are recommended by Staff:

Part 1 (existing dwelling – former manse)

- Maximum front yard setback - as existing (R1 standard - 7.5 metres)
- Maximum width of garage face - as existing (R1 standard - 7.5 metres)

Part 2 (existing church – future dwelling)

- Minimum front yard setback (existing building) - 4.9 metres (R1 standard - 6.0 metres)
- Minimum front yard setback for garage - 30 metres (R1 standard - 8.5 metres)
- Maximum width of garage face - 10.4 metres (R1 standard - 7.5 metres)
- Minimum setback to stable top of slope - 0 metres (no zoning standard - NPCA review)

Part 2 will include an “Open Space (OS) Site-Specific Zone” to restrict the permitted uses within this zone boundary. Only environmental conservation uses shall be permitted and the zone requirements in Section 9.11.2 do not apply. This ensures ongoing protection of the environmental feature and its ecological functions.

The requested provisions on Part 1 are recognizing the location of the existing dwelling on the lot and the attached garage. No development is proposed on this lot; therefore, no further zoning provisions were requested.

The reduction in front yard setback for Part 2 is a result of the existing church entrance. This setback is not proposed to change through the conversion of the church building to a dwelling. The setback accounts for the existing location of the church and ensures that the heritage value of the church is prominent and visible from the street. The increase in garage face width can be considered appropriate, as the proposed garage is setback substantially from the street, is situated to the rear of the proposed dwelling and blends in with the background of the property as to not create a garage-dominant streetscape. The heritage value of the church would remain the focal point of the property.

The proposed 0.0 metre setback in relation to the stable top of slope is considered appropriate to accommodate the proposed development. The NPCA did not offer objection to the established stable top of slope boundary and do not permit works beyond the stable top of slope. A work permit from the NPCA is required prior to the commencement of any works on-site.

The proposed R1 site-specific and OS site-specific zoning for the subject lands are appropriate zone categories to accommodate the existing dwelling on Part 1, permit the conversion of the church to a dwelling on Part 2 and to further preserve the natural environmental feature and its ecological functions. The remaining provisions of the R1 zone are to be maintained on the subject lands.

A draft Zoning By-law Amendment is attached as **Appendix V** to this report.

5.4 Consultation

The Application was circulated to Town departments and external agencies for review and comment. Public Notice of the Application was provided as required by the *Planning Act*. An electronic Open House was held on September 13, 2023, and a statutory Public Meeting was held on October 3, 2023. Written comments submitted by the public and agencies are included in **Appendix VI** to this report and summarized as follows:

5.4.1 Town Departments

Building – No objections.

Finance – No objections.

Fire – No objections.

Heritage – The submitted HIA was considered and reviewed by MHC on October 4, 2023. Heritage comments have been outlined throughout the analysis above. The Ministry Letter for the Stage 1-2 Archaeological Assessment will be required as a condition of approval for the Consent application.

Operations – No objections. Further comments relating to servicing and entrances will be provided at the Consent application stage.

5.4.2 External Agencies

Enbridge Gas – No objections.

Niagara Escarpment Commission (NEC) – No objection, subject to development occurring in accordance with the Slope Stability Assessment and the Heritage Impact Assessment, as well as receiving the Ministry Letter for the Archaeological Assessment. Staff also note consideration for use of green infrastructure and low impact development should be given where possible. The NPCA should be satisfied with the setback of the development and appropriate erosion and sediment control measures are to be installed prior to construction.

Niagara Peninsula Conversation Authority (NPCA) – No objections to the calculated location of the stable top of slope, as per the Slope Stability Assessment, and no objections to the proposed rezoning.

Niagara Region – No objections. The requested road widening will be a condition of approval for the Consent application.

5.4.3 Public

There were no residents in attendance at the electronic Open House, nor at the statutory Public Meeting. No public comments were received at the time of preparation of 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

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 proposed Zoning By-law Amendment.

8. FINANCIAL IMPLICATIONS

Not applicable; there are no financial implications to this report.

9. ENVIRONMENTAL IMPLICATIONS

Comments on environmental implications are included and addressed throughout the report.

10. COMMUNICATIONS

Once the Town Council has made a decision on the Application, notice of the decision will be given as required in the *Planning Act*. The decision of Council is subject to a 20-day appeal period. If no appeals are received during the appeal period, the decision of Council is final.

11. CONCLUSION

Community and Development Services Staff recommend approval of Zoning By-law Amendment Application ZBA-17-2023 as detailed in this report since the Application meets *Planning Act* requirements, is consistent with the Provincial Policy Statement and conforms with the Growth Plan, Niagara Official Plan and Town Official Plan.

12. PREVIOUS REPORTS

- **CDS-23-194** – Public Meeting – ZBA-17-2023 – 1436 & 1442 York Road (October 3, 2023)
- **CDS-23-212** – Municipal Heritage Committee – 1436-1442 York Road – Review of Heritage Impact Assessment (October 4, 2023)

13. APPENDICES

- **Appendix I** – Survey Sketch
- **Appendix II** – Maps
- **Appendix III** – Planning Legislation and Policies
- **Appendix IV** – Draft Zoning By-law Amendment
- **Appendix V** – Agency Comments

Respectfully submitted:

Prepared by:



**Victoria Nikoltcheva
Planner II**

Recommended by:



**Rick Wilson, MCIP, RPP
Manager of Planning**

Recommended by:



**Kirsten McCauley, MCIP, RPP
Director, Community & Development
Services**

Submitted by:



**Marnie Cluckie, MS.LOD, B.ARCH, B.ES
Chief Administrative Officer**