

From: [Municipal Planning](#)
To: [Victoria Nikoltcheva](#)
Subject: RE: New Application - ZBA-17-2023 - 1436 & 1442 York Road, NOTL
Date: Friday, September 8, 2023 9:29:43 AM

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

Thank you for your circulation.

Enbridge Gas Inc. does not object to the proposed application however, we reserve the right to amend our development conditions.

Please continue to forward all municipal circulations and clearance letter requests electronically to MunicipalPlanning@Enbridge.com.

Regards,

Willie Cornelio CET (he/him)
Sr Analyst, Municipal Planning
Engineering

ENBRIDGE
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September 21, 2023

Via Email Only

Victoria Nikoltcheva
Planner II
1593 Four Mile Creek Road
Virgil ON, L0S 1T0

NPCA File No.: PLZBLA202300991

Dear Ms. Nikoltcheva,

**Re: Niagara Peninsula Conservation Authority (NPCA) Comments
Application for Zoning By-law Amendment
Town of Niagara-on-the-Lake: 1436-1442 York Road
Town File No.: ZBA-17-2023**

The NPCA has received a request to review the complete application in relation to the lands municipally known as 1436-1442 York Road. A Zoning By-law Amendment is requested to rezone the subject lands to a Residential (R2) – Site Specific Zone to facilitate the conversion of an existing church (1436 York Road) to a residential dwelling, and to create a separate lot for the existing dwelling at 1442 York Road. An Environmental Conservation (EC) Zone will be applied to the adjacent valleylands of Four Mile Creek.

NPCA Policy

NPCA Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document.

The NPCA regulates watercourses, flood plains (up to the 100-year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06 of the Conservation Authorities Act*. The NPCA's *Policies for Planning and Development in the Watersheds of the Niagara Peninsula Conservation Authority*. (NPCA policies) provides direction for managing NPCA regulated features.

On January 1, 2023, a new Minister's regulation (Ontario Regulation 596/22: Prescribed Acts – Subsections 21.1.1 (1.1) and 21.1.2 (1.1) of the Conservation Authorities Act) came into effect which provides that conservation authorities (CAs) may not provide a municipal (Category 2) or other (Category 3) program or service related to reviewing and commenting on proposals, applications, or other matters under a prescribed Act, including the Planning Act. Ontario Regulation 596/22 does not affect CAs provision of mandatory or Category 1 programs or services (i.e., natural hazards and wetlands) related to reviewing and commenting on a proposal, application, or other matter made under those Acts. Municipalities are still required to circulate planning applications and technical reports to CAs so that we may review and comment on natural hazard and wetland matters per Ontario Regulation 686/21.

Zoning By-law Amendment

In support of this application, the NPCA has reviewed the "Slope Stability Assessment" as prepared by Soil-Mat Engineers & Consultants Ltd., dated June 1, 2022 (revised February 1, 2023). The NPCA did not offer objections to the calculated location of the stable top of slope.

In conjunction with this application, the NPCA has reviewed the Planning Justification Report titled: "1436 & 1442 York Road, Niagara-on-the-Lake, Zoning By-Law Amendment and Severance Applications" as prepared by Jennifer Vida, MCIP, RPP, dated August 2023, as well as the survey sketch "1436 York Road" as prepared by J.D. Barnes Limited., dated July 7, 2023. It is noted that the lands from the stable top of slope toward Four Mile Creek are to be zoned Environmental Conservation. The NPCA has no objections to this zoning. Further, the remaining lands are to be zoned a site-specific R2 Zone. The NPCA has no objections to this zoning, nor does this Office offer objections to the severance.

Conclusion

The NPCA does not offer objections to the approval of Town File No.: ZBA-17-2023. The applicant should be aware that permits will be required from the NPCA prior to the commencement of works on site. Works beyond the stable top of slope will not be permissive. All development and/or site alteration shall remain landward of the stable top of slope, being the more restrictive point.

Should you have any further questions or require further information in this matter, please do not hesitate to call. For administrative purposes, please forward any decisions and resolutions of your Committee. In the event of an appeal to the Ontario Land Tribunal (OLT) please send notice of any Case Management Conference.

Thank you,



Taran Lennard
Watershed Planner II
(905) 788-3135 ext. 277
tlennard@npca.ca

October 11, 2023

Victoria Nikoltcheva
Planner II
Town of Niagara-on-the-Lake

VIA EMAIL

Dear Victoria Nikoltcheva:

**Re: Request for Comments – ZBA-17-2023
1436-1442 York Road
Town of Niagara-on-the-Lake**

Staff of the Niagara Escarpment Commission (NEC) received a request for comments under the Planning Act for rezoning the subject lands to Residential (R2) – Site Specific Zone to facilitate the conversion of the existing church at 1436 York Road to a residential dwelling and create a separate lot for the existing dwelling at 1442 York Road. The rezoning also proposes to apply an Environmental Conservation Zone to the adjacent valleyland of Four Mile Creek.

In support of the application, the applicant has prepared the following information:

- Application Form – Zoning Amendment, August 2023
- Severance Sketch, July 2023
- Church Elevations, August 2023
- Concept Floor Plans (Church), August 2023
- Exterior 3D Renderings (Church), August 2023
- Planning Justification Report, August 2023
- Heritage Impact Assessment, January 2023
- Stage 1-2 Archaeological Assessment, July 2022
- Slope Stability Assessment, February 2023
- Parcel Register, August 2023
- Property Index Map, August 2023

The subject lands are within the Niagara Escarpment Plan area, but are located outside of the area of Development Control. For lands outside of the area of Development Control, NEC staff review planning applications to ensure that the policies of the Niagara Escarpment Plan (NEP) are upheld. Although the NEC is not the land use approval authority in areas subject to municipal zoning/areas outside of Development Control, section 13(1) of the Niagara Escarpment Planning and Development Act states that all by-laws within the NEP Area must not conflict with the NEP. Therefore, a

detailed analysis of the NEP policies is required to ensure that the site-specific zoning by-law does not conflict with the NEP.

Niagara Escarpment Plan Part 1 – Minor Urban Centre

The lands are entirely within the Niagara Escarpment Plan (NEP) Area. The policies of the NEP apply to all lands within the Plan area. The lands are designated as within a Minor Urban Centre (St. Davids), with an underlying designation of Escarpment Rural Area.

Development is subject to the land use policies for Minor Urban Centres in Part 1.6 of the NEP. Part 1.6.7 of the NEP states that by-law amendments must not conflict with the Objectives and Development and Growth Objectives of this designation, and the Development Criteria in Part 2 of the NEP.

The permitted uses and creation of new lots within a Minor Urban Centre are those within an approved official plan and/or secondary plan not in conflict with the NEP, subject to the Development and Growth Objectives of this designation. The Town should be satisfied that an accessory dwelling unit on each lot is permitted.

The following Development and Growth Objectives in Part 1.6.8 of the NEP are applicable:

- 1.6.8.3. *Development and growth should avoid Escarpment Protection Areas and be directed to Escarpment Rural Areas in a manner consistent with the Escarpment Rural Area Objectives and Part 2, the Development Criteria of this Plan.*

Comment: The development is proposed within the underlying Escarpment Rural Area.

- 1.6.8.4. *Development and growth should be limited to minimize land use conflicts (e.g., with agriculture) and all development should be of a design compatible with the scenic resources of the Escarpment. Where appropriate, provision for adequate setbacks, and maximum heights for buildings, structures and screening shall be required to minimize the visual impact of development, consistent with any applicable provincial guidance.*

Comment: The development is located within a settlement area and is separated from agricultural uses. Aside from the proposed garage, the site-specific relief is to permit the location of existing structures and variance in height is not required. NEC staff understand that the development will be reviewed under the St. Davids Urban Design Guidelines. Additionally, design recommendations are provided in the Heritage Impact Assessment.

- 1.6.8.5. *Development within Minor Urban Centres should encourage reduced energy consumption, improved air quality, reduced greenhouse gas emissions (consistent with provincial reduction targets to 2030 and 2050) and work towards*

the long-term goals of low carbon communities, net-zero communities and increased resilience to climate change, through maximizing opportunities for the use of green infrastructure and appropriate low impact development.

Comment: NEC staff encourage the use of green infrastructure and low impact development in the future detailed design where possible.

- 1.6.8.6. *Development and growth should be minor only, relative to the size and capacity of the settlement to absorb new growth, so that the community character is maintained.*

Comment: NEC staff understand that the proposed lots meet the minimum lot areas, and a zoning by-law amendment is required to rezone the lands from institutional to residential and environmental conservation. The site-specific amendments are to address existing structures.

- 1.6.8.9 *Growth and development in Minor Urban Centres shall be compatible with and provide for:*
 - a) the protection of natural heritage features and functions;*
 - b) the protection of hydrologic features and functions;*
 - c) the protection of agricultural lands, including prime agricultural areas;*
 - d) the conservation of cultural heritage resources, including features of interest to First Nation and Métis communities;*
 - e) considerations for reductions in greenhouse gas emissions and improved resilience to the impacts of a changing climate;*
 - f) sustainable use of water resources for ecological and servicing needs; and*
 - g) compliance with the targets, criteria and recommendations of applicable water, wastewater and stormwater master plans, approved watershed planning and/or subwatershed plan in land use planning.*

Comment: The property contains slope hazard associated with a nearby watercourse. These lands are proposed to be zoned as environmental conservation and no development is proposed within this area. The property is not located near agricultural lands. No archaeological resources were identified, and the heritage building will be conserved.

- 1.6.8.10. *Municipal sewage and water services will be the preferred form of servicing.*

Comment: Municipal servicing is proposed.

Niagara Escarpment Plan Part 2 – Development Criteria

Part 2 of the NEP contains the Development Criteria used in consideration of a development proposal. The proposal must be consistent with the Development Criteria contained in Part 2 of the NEP.

- **Part 2.2 General:** The zoning by-law amendment is to rezone the property from institutional to residential and environmental conservation. The environmental

conservation zone will limit new development near the watercourse and top of slope to protect the Escarpment environment. The site-specific amendments to the residential zone are to permit existing development.

- **Part 2.4 Lot Creation:** The proposed lot creation is within a Minor Urban Centre. NEC staff understand that the configuration of the new lot requires a zoning by-law amendment to address the location of existing structures. The new lot line is proposed outside of natural heritage and hydrologic features and top of slope is contained on one lot.
- **Part 2.5 Slope Stability:** A Slope Stability Assessment was completed and concludes that the subject slope is stable in the short and long term. The existing development is currently built to top of slope. The proposed garage is also proposed to top of slope. NEC staff defer to Niagara Peninsula Conservation Authority staff about whether a sufficient setback from development to top of slope has been provided.
- **Part 2.10 Cultural Heritage:** A Stage 1-2 Archaeological Assessment was completed and resulted in the identification of no archaeological resources. No further archaeological assessment is recommended by the archaeologist. A clearance letter from the Ministry of Citizenship and Multiculturalism and a standard advisory note are recommended. A Heritage Impact Assessment was completed to assess the impact to the church building and provides recommendations and mitigation measures.

Conclusion

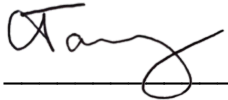
NEC staff have no objection to the approval of the zoning by-law amendment, subject to the following:

- That development occurs in accordance with the recommendations of the Slope Stability Assessment, prepared by Soil-Mat Engineers & Consultants, dated June 1, 2022 and revised February 1, 2023.
- That the proposed garage is sufficiently setback from top of slope to the satisfaction of the Niagara Peninsula Conservation Authority.
- That erosion and sediment control measures are installed prior to new construction.
- Receipt of an acknowledgement letter from the Ministry of Citizenship and Multiculturalism and an advisory note regarding the identification of archaeological resources.
- That development occurs in accordance with the recommendations of the Heritage Impact Assessment prepared by Megan Hobson, dated January 22, 2023.
- Consideration of the use of green infrastructure and low impact development in future detailed design where possible.

I trust the above comments are of assistance in ensuring that the proposed does not conflict with the Niagara Escarpment Plan. We appreciate the opportunity to comment. If there are any questions, I can be reached at 905-703-5354 or cheryl.tansony@ontario.ca.

Please send notice of decision.

Sincerely,



Cheryl Tansony
Senior Planner
Niagara Escarpment Commission

Growth Strategy and Economic Development

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
(905) 980-6000 Toll-free:1-800-263-7215

Via Email

November 8, 2023

Region File: D.18.05.ZA-23-0078

Victoria Nikoltcheva
Planner II
Town of Niagara-on-the-Lake
1593 Four Mile Creek Road
Virgil, ON L0S 1T0

Dear Ms. Nikoltcheva:

**Re: Regional and Provincial Comments
Zoning By-law Amendment Application
Town File: ZBA-17-2023
Owner: Brenda Lynn Stewart
Agent: Mark Stewart
1436-1442 York Road
Town of Niagara-on-the-lake**

Regional Growth Strategy and Economic Development staff has reviewed the Zoning By-law Amendment (“ZBA”) Application for 1436-1442 York Road located in the Town of Niagara-on-the-Lake. The Applicant requests to rezone the subject lands to “Residential (R2) – Site Specific Zone” to facilitate the conversion of the existing church (1436 York Road) to a residential dwelling and create a separate lot for the existing dwelling at 1442 York Road. The rezoning also proposes to apply an “Environmental Conservation (EC) Zone” to the adjacent Valleyland of Four Mile Creek.

A pre-consultation meeting was held on September 23, 2021, with Regional staff, Town staff and the Applicant in attendance. Previous Regional comments regarding this application were provided to the Town in a letter dated September 22, 2023. Regional staff have since engaged in further discussions with the applicant regarding the proposed entrances to the Regional Road. The following updated comments are provided based on the outcome of these discussions to assist the Town of Niagara-on-the-Lake with their review of the proposed ZBA Application.

Provincial and Regional Policies

The subject lands are designated “Settlement Area” in the *Provincial Policy Statement, 2020* (“PPS”) and “Delineated ‘Built-Up’ Area” in *A Place to Grow: Growth Plan for the*

Greater Golden Horseshoe, 2020 Consolidation (“Growth Plan”). The PPS directs growth to settlement areas and encourages the efficient use of land, resources, infrastructure, and public service facilities that are planned or available. The Growth Plan contains policies that direct for infill and intensification within the built-up area to support the achievement of complete communities, access to multimodal and active transportation networks, and connections to transit services and other public amenities.

The subject lands are designated “Built-Up Area” in the *Niagara Official Plan* (“NOP”). A full range of residential, commercial and employment uses are generally permitted within the urban area designation, subject to the availability of adequate municipal services and infrastructure. The NOP promotes development in its urban areas and supports growth that contributes to the overall goal of providing a sufficient supply of housing that is affordable, accessible, and suited to the needs of a variety of households and income groups in Niagara.

Regional staff is satisfied that the ZBA application meets the intent of the policies set out for the Delineated Built-up Areas within Regional and Provincial plans, subject to the following comments. Regional staff note that the NOP states that municipalities may establish standards for appropriate infill development within established residential neighbourhoods. Local compatibility considerations and interface with neighbouring land uses are local planning matters, and therefore Regional staff defer consideration of these aspects of the proposed development to Town Planning staff.

Archaeological Potential

Section 2.6.2 of the PPS and Section 6.4.2.1 of the NOP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved. The subject lands are identified as having high archaeological potential in accordance with Ministry criteria, Schedule K of the NOP, and the Town’s Archaeological Master Plan mapping.

During the pre-consultation meeting held on September 23, 2021, a Stage 1-2 Archaeological Assessment was requested. Regional staff have received a Stage 1-2 Archaeological Assessment completed by Detritus Consulting (dated July 20, 2022). The Stage 1 background research indicated that the site exhibited moderate to high potential for the identification and recovery of archaeological resources. The Stage 2 assessment consisted of a test pit survey at 5m intervals of the manicured lawn area. The investigation did not result in the identification or documentation of archaeological resources; therefore, no further archaeological assessments are recommended for the site.

Regional staff has not yet received a copy of the associated acknowledgement letters from the Ministry of Citizenship and Multiculturalism (“MCM”). Staff recommend that a holding provision be implemented until the Ministry Acknowledgement letters from the

MCM are received; however, staff defer to the Town of Niagara on the Lake to determine the appropriate method of implementation.

Cultural Heritage

According to the PPS, Growth Plan, and NOP, significant built heritage resources and significant cultural heritage landscapes shall be conserved. Heritage resources include buildings, structures, monuments, installations or any manufactured or constructed parts or remnants that contribute to a property's cultural heritage value or interest. Cultural heritage landscape refers to geographical areas that may have been modified by human activity and are identified as having cultural heritage value or interest. These landscape features may include buildings, structures, spaces, views, archaeological sites or natural elements that are valued together for their interrelationship, meaning or association. Built heritage resources and cultural heritage landscape may be located on or include properties that have been determined to have cultural heritage value or interest under the Ontario Heritage Act.

Policy 6.5.1.5 of the NOP requires that, where development and/or site alteration is proposed on or adjacent to a protected heritage property, a heritage impact assessment is required. The subject property has been identified as being located within the St. Davids Heritage Conservation District Study Area and is listed on the Town's Municipal Heritage Register as a non-designated property.

During the pre-consultation meeting, Town staff requested that a Cultural Heritage Impact Assessment be submitted with the application to adequately address the Town's Heritage Impact Guidelines. A Heritage Impact Assessment ("HIA"), prepared by Megan Hobson (dated January 22, 2023) was submitted with the application.

The HIA concludes that the former Presbyterian Church is a significant built heritage resource and that the proposed changes are compatible with the long-term conservation of its cultural heritage value and heritage attributes through adaptive reuse. The HIA recommends that impacts of the proposed alterations can be successfully mitigated through the following:

- 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.

It is further recommended that the original Gothic windows with coloured glass be retained *in situ* where possible and that any original windows that cannot be preserved in place should be salvaged and re-purposed. Further details about the removal and re-purposing of these elements should be included in the *Conservation Plan*.

The Region shares an interest with the Town of Niagara-on-the-Lake in the protection and conservation of significant cultural heritage resources through the development of policies to protect and conserve locally significant built heritage resources. The Region defers to the Town with respect to their analysis of the HIA and the above-noted mitigation measures. It is understood that the Town of Niagara-on-the-Lake Municipal Heritage Committee will be reviewing the HIA and, accordingly, Town Council should look to the Town's comments with respect to this assessment.

Natural Heritage

A pre-consultation meeting for the proposal was held prior to the approval of the *Niagara Official Plan ("NOP")* by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous Regional Official Plan ("ROP") apply to the proposal.

The ROP identifies that the subject lands are impacted by the Region's Core Natural Heritage System ("CNHS"), consisting of Significant Woodland which is located within a steep slope on the western extent of the property. The ZBA application proposes to convert an existing church into a residential dwelling. A slope stability assessment was undertaken by Soil-mat Engineers & Consultants Ltd. (revised date February 1, 2023) for the subject lands to confirm the location of stable top of slope. The confirmed location of stable top of slope was utilized to identify the boundaries of the conservation area within the property, which is appropriate given the Woodland feature is confined to the Valleyland. Staff has reviewed the Zoning By-law Amendment Schedule included in the Planning Justification Report (prepared by Jennifer Vida, dated August 2023), and are satisfied that the Schedule adequately identifies Regionally designated natural heritage features with appropriately restrictive environmental zoning. As such, staff offer no objection to the application.

Regional staff note that any future Planning Act applications on the subject lands may require further study.

Regional Road Allowance

The subject property has frontage along Regional Road 81 (York Road). This section of road has a substandard road allowance. The designated road allowance is 26.2 meters as identified in the NOP. Therefore, the Applicant is required to gratuitously grant the following widening to the Region:

- An irregular widening as shown in the attached sketch across the frontage of the subject property. This is required in order to achieve 13.1 metres from the original centerline of this road section.

The widening will be a condition of the future consent application.

Regional Road Improvements

Regional staff note that the subject property is within the study area for the intersection improvements at Four Mile Creek Road and York Road. Detailed design is scheduled to begin fall 2023, with construction tentatively scheduled for 2026. The timing of the project schedule may change depending on budget pressures and priorities and is not guaranteed until the budget is approved by Regional Council in the respective budget years. The concept drawing of the final design of York Road in the area of these properties is included for information.

Access to the Regional Road

Regional and Town staff met with the owner and the owner's planning consultant to discuss access to the site. After the meeting, the applicant provided a sketch for separate access points. Transportation engineering staff reviewed and revised the proposed entrances to meet TAC requirements which require 6.0 metre width and 3.0 metre/4.5 metre radii and provided a sketch to scale on the aerial mapping showing the potential locations for separate entrances. The sketch below shows the locations of separate entrances that would be acceptable to the Region in this specific case with the current uses proposed. The owner has confirmed they are satisfied with these locations; therefore, the Region is amendable to provide two accesses to the property based on the proposed zoning of single-family residential units. Should land use changes be proposed in the future that would generate more trips, these access points would be reviewed again to determine if they are appropriate.

At the consent application stage, Regional staff will require that engineering drawings are provided showing the details for the proposed entrances and removal and reinstatement of the existing access in the Regional right-of-way.



Regional Construction Encroachment Permit

Prior to any construction/work taking place within the Regional road allowance, a Regional Construction Encroachment permit must be obtained from the Transportation Services Division, Public Works Department.

Regional Sign Permit

Please note that the placement of any sign, notice or advertising device within 20m of the centerline of York Road will require a Regional Sign permit.

Permit applications can be made through the following link:

<http://niagararegion.ca/living/roads/permits/default.aspx>

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection, provided the owner brings the waste and recycling to the curbside on the designated pick-up day, and that the following limits are met:


- Weekly Blue/Grey Carts - Unlimited.
- Weekly Green Carts – Unlimited and,
- 8 Garbage Bags/Cans collected every-other-week.
- **Curbside Collection Only.**
- **Collection to remain as existing.**

Conclusion

In conclusion, Regional Growth Strategy and Economic Development staff offer no objection to the proposed Zoning By-law Amendment application, as the proposed development is consistent with the PPS and conforms to Provincial and Regional policies, subject to the satisfaction of any local requirements, including those pertaining to cultural heritage and archaeological resources.

If you have any questions related to the above comments, please contact the undersigned at Alex.Boekestyn@niagararegion.ca, or Pat Busnello, Manager of Development Planning at Pat.Busnello@niagararegion.ca.

Best regards,



Alex Boekestyn, M.Sc.
Development Planner, Niagara Region

cc: Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region
Adam Boudens, M.Sc. Senior Environmental Planner, Niagara Region
Stephen Bureau, Development Approvals Technician, Niagara Region