



Town of Niagara-on-the-Lake

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

REPORT #: CDS-24-050 **COMMITTEE DATE:** 2024-03-21
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Minor Variance Application A-03/24 – 332 Johnson Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-03/24 for 332 Johnson Street be refused.

2. PURPOSE

The applicant is proposing the construction of a new single-detached dwelling with an attached garage. To accommodate the proposal, the following variance has been requested:

1. To allow an attached garage to protrude beyond the front face of the dwelling by 13.7 metres, whereas the Zoning By-law requires the garage to be set back a minimum of 1.0 metres from the front face of the dwelling.

The application drawing and building elevations are attached as **Appendix I** to this report.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 332 Johnson Street, lying on the south side of Johnson Street, and east of Dorchester Street, within the urban area of Old Town. The location of the subject lands is shown in **Appendix II**.

The subject lands are a rectangular parcel that has an area of 1,470.3 square metres (0.36 acres) with a frontage of 22.86 metres on Johnson Street, and a depth of 64.33 metres. The subject lands are currently vacant.

The surrounding lands are used for residential purposes. The applicant has advised that the Minor Variance is requested due to the size and configuration of the existing lot, in order to accommodate an attached garage for a future single-detached dwelling on the property.

4. DISCUSSION / ANALYSIS

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

Subsection 45(1) of the *Planning Act* establishes four tests for considering minor variances:

1. Is the requested variance minor in nature?

Most garages in the Town are setback from the front face of dwelling, in alignment with Town Official Plan policies and Zoning By-law provisions. The proposed garage design is a departure from the standard design. Staff are not satisfied that the applicant has provided sufficient justification to support the proposed garage design extending this distance beyond the front face of the proposed dwelling.

Staff do not consider the requested variance to be minor in nature.

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

The proposed projecting design of the attached garage can be found on some properties in the surrounding neighbourhood. Properties with projecting garages in the area include 330 Johnson Street, 333 Johnson Street, and 227 Butler Street. The garage at 330 Johnson Street projects by approximately 7.5 metres from the front face of the dwelling. The garage at 333 Johnson Street projects by approximately 5.5 metres from the front face of the dwelling. The garage at 227 Butler Street projects by approximately 8.5 metres from the front face of the dwelling. All of these properties also have reduced front yard setbacks to the street, ranging from approximately 4.4 metres to 6.7 metres, and their garages either face the street or are sideways (garage doors face a side lot line). The projection of the proposed garage at 332 Johnson Street (13.7 metres) exceeds the projections of the other protruding garages in the area.

The projecting garages at 330 Johnson Street, 333 Johnson Street, and 227 Butler Street are all considered to be legal non-conforming, as they were permitted prior to current zoning standards. These garages were constructed before Zoning By-law 4316-09, as amended, was in force and effect, which included a provision requiring the garage to be setback by 1.0 metre behind the front face of the dwelling.

Staff are of the opinion the proposal may not fit the character of the neighbourhood and more justification, such as a comprehensive streetscape analysis or study, would be required to address compatibility.

Staff do not consider the requested variance to be appropriate and desirable 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 "Established Residential (ER) Zone" in Zoning By-law 4316-09, as amended. A single-detached dwelling is a permitted use in the ER zone.

The proposed variance requests to allow an attached garage to protrude beyond the front face of the dwelling by 13.7 metres, whereas the Zoning By-law requires the garage to be set back a minimum of 1.0 metres from the front face of the dwelling.

Staff do not consider the variance to maintain the general intent and purpose of the By-law.

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

The subject lands are designated “Established Residential” and “Built-up Areas” in the Town’s Official Plan (2017 Consolidation, as amended).

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

Staff do not consider the requested variance to maintain the general intent and purpose of the Official Plan.

5. 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.

Fire and Emergency Services – No objection.

Finance – No objection.

Heritage – No objection. Should Committee wish to approve the Minor Variance, a condition would be requested to require the submission of an archaeological assessment.

Operations – No objection.

Urban Forestry – No objection. Should Committee wish to approve the Minor Variance, a condition would be requested regarding the submission of an Arborist Report and Tree Inventory, as well as a signed copy of the Town’s Tree Protection Declaration form.

Public

Two letters from the public were received in support of the application and the garage design.

6. STRATEGIC PLAN

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

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

The Committee may approve, refuse or modify the requested application.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

It is not anticipated that any trees will be impacted or removed based on this proposal. However, to ensure the protection of trees on the property through any future development/construction works, Town Urban Forestry Staff requires the submission of an Arborist Report and Tree Inventory.

10. COMMUNICATIONS

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

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

11. CONCLUSION

Planning Staff recommend refusal of Minor Variance Application A-03/24 as the requested variance is considered to not be minor in nature, not appropriate for the development or use of the land, building or structure, and is not considered to maintain the general intent and purpose of the Zoning By-law and the Official Plan, pursuant to Subsection 45(1) of the *Planning Act*.

12. PREVIOUS REPORTS

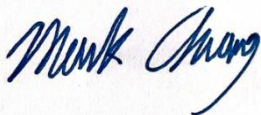
Not applicable.

13. APPENDICES

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

Respectfully submitted:

Prepared by:



Mark Chuang
Planner II

Reviewed by:



Aimee Alderman, MCIP, RPP
Senior Planner