



Town of Niagara-on-the-Lake

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REPORT #: CDS-24-098 **COMMITTEE DATE:** 2024-06-20
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Minor Variance Application A-08/24 – 240 Nassau Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-08/24 for 240 Nassau Street be approved.

2. PURPOSE

The applicant is requesting relief for the maximum lot coverage requirements for an accessory structure on the subject lands to permit a covered porch. To accommodate the proposal, the following variance is requested:

1. Maximum lot coverage for an accessory structure of 8%, as required in the Zoning By-law, to 10% for the proposed covered porch.

The application drawings are attached as **Appendix I**.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 240 Nassau Street, located on the north side of Johnson Street and the east side of Nassau Street, in the urban area of Old Town. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 775 square metres, with a frontage of 18.36 metres on Nassau Street. The lands are permitted to contain one single-detached dwelling, to be connected to municipal water and sanitary services, as a result of a site-specific Zoning By-law Amendment (By-law No. 4316ER-23) that was approved by Town Council in July 2023. The site-specific zoning amendment allowed for a minimum rear and interior side yard setback for accessory structures of 1.2 metres, and a maximum height of an accessory building or structure of 6.7 metres. The site-specific Zoning By-law is attached as **Appendix III** to this report.

Following the Zoning By-law Amendment approval, the associated Consent application (File No. B-23/23) was approved in August 2023 by the Committee of Adjustment to sever the subject lands, subject to conditions which have since been cleared.

The surrounding lands are characterized by residential uses.

4. DISCUSSION / ANALYSIS

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

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

1. Is the requested variance minor in nature?

The proposed covered porch is located in the rear yard and will not be visible from the street. The requested variance would facilitate the covering of a patio within the rear yard, and provide for additional covered amenity space. The covered porch complies with all other provisions of the Zoning By-law, including exceeding the minimum interior side yard and rear yard setbacks as well as being lesser than the maximum height permissions. The covered porch is not anticipated to pose adverse impacts to the neighbouring properties.

Staff consider the requested variance to be minor in nature.

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

The requested variance would permit the construction of a seasonal covered porch. The covered porch will utilize bug/fly screening, which would limit the ability to use this space in the colder months of the year. While the covered porch is an addition to the accessory structure, it would not increase the number of bathrooms or bedrooms. The massing and scale of the sunroom is appropriate when compared to surrounding properties.

Staff consider the variance to be desirable for the development 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-105(b))” in Zoning By-law 4316-09, as amended, and a single-detached and accessory structure is permitted. Aside from the request to increase lot coverage for the accessory structure, the proposal will continue to meet all provisions of the ER-105(b) zone.

Some nearby properties have a higher lot coverage than the subject lands, including permissions for increased lot coverage for accessory structures. The proposed increase in coverage for the accessory structure would not be uncharacteristic for the surrounding area. The covered porch is within the permitted height and is setback appropriately from neighbouring properties, in accordance with the ER-105(b) zone.

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 “Established Residential” in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended (“Town OP”). Accessory buildings and structures are permitted uses.

The goals and objectives of the Residential designation as set out in the Official Plan outline that new development or redevelopment must be appropriately located and compatible with

surrounding land uses to minimize the potential for land use compatibility impacts, as well as promote the maintenance and rehabilitation of the existing housing stock.

The proposed covered porch is appropriately located on the subject lands and, accordingly, it is not anticipated that the proposed increase in lot coverage for the accessory structure would result in incompatibility with neighbouring lands.

The requested variances maintains the general intent and purpose of the Official Plan.

4.2 Town, Agency and Public Comments

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

Town Departments

Building – No objections. A building permit will be required for the covered porch.

Finance – No objections.

Fire and Emergency Services – No objections.

Heritage – No objections. The subject lands have been cleared of having archaeological potential.

Operations – No objections.

Agencies

No external agency comments were received at the time this report was prepared.

Public

No public comments were received at the time this report was prepared.

5. STRATEGIC PLAN

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

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

6. OPTIONS

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

7. FINANCIAL IMPLICATIONS

Not applicable.

8. ENVIRONMENTAL IMPLICATIONS

Not applicable.

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-08/24 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

- CDS-23-134 – Zoning By-law Amendment ZBA-03-2023 Recommendation Report
- CDS-23-164 – Consent Application B-23/23 – 240 Nassau Street

12. APPENDICES

- Appendix I – Site Plan
- Appendix II – Location Map
- Appendix III – By-law 4316ER-23

Respectfully submitted:

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Recommended by:



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